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United Nations

Report of the Committee against Torture

General Assembly

Official Records • Forty-eighth Session
Supplement No. 44 (A/48/44)

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Convention

1. As at 30 April 1993, the closing date of the tenth session of the Committee against Torture, there were 72 States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention was adopted by the General Assembly in resolution 39/46 of 10 December 1984 and opened for signature and ratification in New York on 4 February 1985. It entered into force on 26 June 1987 in accordance with the provisions of its article 27. A list of States which have signed, ratified or acceded to the Convention together with an indication of those that have made declaration under articles 21 and 22 of the Convention is contained in annex I to the present report.

2. The texts of the declarations, reservations or objections made by States parties with respect to the Convention are reproduced in document CAT/C/2/Rev.2.

B. Opening and duration of the sessions

3. The Committee against Torture has held two sessions since the adoption of its last annual report. The ninth and tenth sessions of the Committee were held at the United Nations Office at Geneva from 9 to 20 November 1992 and from 19 to 30 April 1993.

4. At its ninth session, the Committee held 18 meetings (119th to 136th meeting) and at its tenth session the Committee held 17 meetings (137th to 153rd meeting). An account of the deliberations of the Committee at its ninth and tenth sessions is contained in the relevant summary records (CAT/C/SR.119-153).

C. Membership and attendance

5. The membership remained the same as during 1992. The list of the members, together with an indication of the duration of their term of office, appears in annex II to the present report.

6. All the members attended the ninth session of the Committee; Mr. Dipanda Mouelle attended a part of the session. The tenth session of the Committee was attended by all the members.

D. Officers

7. The following members of the Committee acted as officers during the reporting period:

Chairman: Mr. Joseph Voyame

Vice-Chairmen: Mr. Alexis Dipanda Mouelle
Mr. Ricardo Gil Lavedra
Mr. Dimitar N. Mikhailov

Rapporteur: Mr. Peter Thomas Burns

E. Agendas

8. At its 119th meeting, on 9 November 1992, the Committee adopted the following items, listed in the provisional agenda submitted by the Secretary-General in accordance with rule 6 of the rules of procedure (CAT/C/19), as the agenda of its ninth session:

1. Adoption of the agenda.

2. Organizational and other matters.

3. Submission of reports by States parties under article 19 of the Convention.

4. Consideration of reports submitted by States parties under article 19 of the Convention.

5. Consideration of information received under article 20 of the Convention.

6. Consideration of communications under article 22 of the Convention.

7. Preparatory activities relating to the World Conference on Human Rights.

9. At its 137th meeting, on 19 April 1993, the Committee adopted the following items, listed in the provisional agenda submitted by the Secretary-General in accordance with rule 6 of the rules of procedure (CAT/C/22), as the agenda of its tenth session:

1. Adoption of the agenda.

2. Organizational and other matters.

3. Submission of reports by States parties under article 19 of the Convention.

4. Consideration of reports submitted by States parties under article 19 of the Convention.

5. Consideration of information received under article 20 of the Convention.

6. Consideration of communications under article 22 of the Convention.

7. Future meetings of the Committee.

8. Action by the General Assembly at its forty-seventh session:

   (a) Annual report submitted by the Committee against Torture under article 24 of the Convention;

   (b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights.

9. Preparatory activities relating to the World Conference on Human Rights.

10. Annual report of the Committee on its activities.

F. Working methods of the Committee

Ninth session

10. At its 136th meeting, on 20 November 1992, the Committee exchanged views on possible ways to make its methods of work more effective and requested the Secretariat to prepare a report which would provide information on the working methods of other human rights treaty bodies and give the Committee general ideas on how it could improve its work.

Tenth session

11. In connection with this question, the Committee had before it an informal note by the Secretariat providing information on the working methods of other human rights treaty bodies.

12. Owing to lack of time, the Committee decided, at its 152nd meeting, on 29 April 1993, to postpone consideration of this question until its eleventh session, in November 1993.

G. Cooperation between the Committee and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture

13. The Committee and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture held a joint meeting on 28 April 1993, during the 151st meeting of the Committee. The Chairman of the Committee and the Chairman of the Board of Trustees, Mr. Jaap Walkate, provided information on the most recent activities of both organs and the members exchanged views on how to make public opinion better informed of their work. Mr. Bent Sørensen, at the Committee's invitation, provided information on the activities of the European Committee established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, of which he had been member and First Vice-Chairman since September 1989.

H. Question of a draft optional protocol to the Convention

14. At the 119th meeting, on 9 November 1992, the Chairman of the Committee informed the other members that he had attended a meeting of the Working Group set up by the Commission on Human Rights to prepare a draft optional protocol to the Convention. 1/ The Working Group had held its first session at the United Nations Office at Geneva from 19 to 30 October 1992. It had welcomed the comments of the Committee against Torture on the draft optional protocol which had been submitted to it in a working document (E/CN.4/1992/WG.11/WP.1/Add.2).

15. The Chairman of the Committee provided information on the discussion which had taken place in the Working Group with his participation. He pointed out that the Working Group had decided to invite, at its following sessions, a member of the Committee who would attend the meetings of the Group, give his contribution to the discussions, and provide information on matters of mutual concern for both the Group and the Committee.

16. The Committee agreed to designate Mr. Bent Sørensen as its observer in the future sessions of the Working Group.

I. Preparatory activities relating to the World Conference on Human Rights

Ninth session

17. At the 119th meeting, on 9 November 1992, Mr. Sørensen, who had been designated by the Committee as its representative to the Preparatory Committee for the World Conference on Human Rights, reported on the activities of the Preparatory Committee at its third session, held at the United Nations Office at Geneva from 14 to 18 September 1992, as well as on his participation in the discussions. Mr. Ben Ammar informed the Committee about his participation as representative of a non-governmental organization in the African Regional Preparatory Meeting for the World Conference, which had taken place at Tunis from 2 to 6 November 1992.

18. At the same meeting, and at its 126th, 127th and 136th meetings, on 13 and 20 November 1992, the Committee discussed how it should participate in the various meetings to be held in connection with preparations for the World Conference on Human Rights, and the Conference itself to be held at Vienna from 14 to 25 June 1993.

19. The Committee decided that Mr. Sørensen would continue to act as its representative to the Preparatory Committee for the Conference and Mr. Mikhailov as its alternative representative. The Committee postponed until a later stage a decision on its representation at the Conference itself.

20. In addition, at its 136th meeting, on 20 November 1992, the Committee, pursuant to the request made by the General Assembly in paragraph 10 of resolution 45/155, adopted the following recommendations to the Preparatory Committee for the World Conference on Human Rights, and to the Conference itself:

"The Committee against Torture,

"Pursuant to paragraphs 9 and 10 of General Assembly resolution 45/155 of 18 December 1990 and paragraph 5 of Commission on Human Rights resolution 1991/30 of 5 March 1991,

"1. Appoints Mr. Sørensen as representative and Mr. Mikhailov as alternate to the meetings of the Preparatory Committee for the World Conference on Human Rights;

"2. Recommends that:

"(a) With a view to eradicating torture by the year 2000, the subject matter should be included in the agenda of the World Conference;

"(b) An energetic and concerted effort should be made both during the process of preparation for the World Conference and at the Conference itself to encourage:

"(i) States that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including its articles 20, 21 and 22;

"(ii) Those States parties to the Convention which have not done so to declare in favour of the provisions of articles 20, 21 and 22;

"(c) In view of the unfortunate rise of ethnic violence, torture and other human rights breaches in all their manifestations in various regions of the world, the possibility should be examined of:

"(i) Preventing human rights violations, especially the crime of torture, and other cruel, inhuman or degrading treatment or punishment, within the scope of the activities of the Committee;

"(ii) Increasing the United Nations budgetary resources allocated to human rights;

"3. Would welcome the opportunity, within the framework of the World Conference, for a meeting to be convened with the participation of the chairpersons and/or representatives of the United Nations human rights treaty bodies and the chairpersons and/or representatives of each of the principal regional and other human rights organizations to deal with the matters referred to;

"4. Would also welcome the Preparatory Committee and the World Conference exploring the following broader issues:

"(a) The establishment of a high commissioner for human rights;

"(b) The creation of an international court for human rights;

"(c) The establishment of a research institute for human rights connected with the Centre for Human Rights of the United Nations Secretariat;

"(d) Cooperation and coordination with regional systems for the protection of human rights;

"5. Suggests that, with a view to improving the implementation of existing human rights standards and instruments, the following topics should be considered as appropriate ones for inclusion by the World Conference in its agenda:

"(a) An examination of the issues relevant to the implementation of the Convention against Torture;

"(b) An evaluation of the effectiveness of United Nations monitoring methods and mechanisms;

"(c) A formulation of concrete recommendations for improving the effectiveness of United Nations mechanisms (especially the functioning of the Convention against Torture) aimed at promoting, encouraging and monitoring respect for human rights and fundamental freedoms."

Tenth session

21. At the 147th meeting, on 26 April 1993, Mr. El Ibrashi reported on his participation in the Asian regional meeting for the preparation of the World Conference on Human Rights, which had been held at Bangkok from 29 March to 2 April 1993.

22. At the 148th meeting, on 26 April 1993, Mr. Sørensen reported on his participation in the fourth session of the Preparatory Committee for the Conference, which was being held at Geneva from 19 to 30 April 1993.

23. At its 151st meeting, on 28 April 1993, the Committee decided that its Chairman would represent it at the World Conference on Human Rights. Mr. Sørensen would act as his alternate. Mr. Ben Ammar and Mr. Burns, who would also participate in the Conference on behalf of non-governmental organizations, would also represent the Committee, with Mr. Sørensen being the Committee's primary spokesman.

II. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-SEVENTH SESSION

24. The Committee considered this agenda item at its 144th meeting, on 22 April 1993.

A. Annual report submitted by the Committee against Torture under article 24 of the Convention

25. The Committee had before it an informal note by the Secretariat based on the summary records of the Third Committee of the General Assembly covering the discussion of its annual report (A/C.3/47/SR.40 and 42-45), and General Assembly resolution 47/113 of 16 December 1992 and Commission on Human Rights resolution 1993/37 of 5 March 1993 on the status of the Convention.

26. The Committee took note of the resolutions and of the views expressed during the discussion in the Third Committee of the General Assembly.

B. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Ninth session

27. The Committee held an exchange of views on issues relating to this sub-item at its 124th meeting, on 12 November 1992. The Chairman of the Committee, who had participated in the fourth meeting of persons chairing the human rights treaty bodies, held at the United Nations Office at Geneva from 12 to 16 October 1992, provided information on the conclusions and recommendations of that meeting.

28. In addition, in accordance with the relevant decisions adopted by the Committee at its sixth session, at the 136th meeting, on 20 November 1992, Mr. Sørensen reported on the activities of the Committee on the Rights of the Child and Mr. Voyame reported on the activities of the Committee on the Elimination of Discrimination against Women.

Tenth session

29. The Committee had before it the report of the fourth meeting of persons chairing the human rights treaty bodies (A/47/628, annex), General Assembly resolution 47/111 of 16 December 1992 and Commission on Human Rights resolution 1993/16 of 26 February 1993.

30. The Committee took note of the above-mentioned report and resolutions.

III. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Action taken by the Committee to ensure the submission of reports

Ninth session

31. The Committee, at its 131st meeting, on 17 November 1992, considered the status of submission of reports under article 19 of the Convention. The Committee had before it the following documents:

(a) Note by the Secretary-General concerning initial reports of 27 States parties which were due in 1988 (CAT/C/5);

(b) Note by the Secretary-General concerning initial reports of 10 States parties which were due in 1989 (CAT/C/7);

(c) Note by the Secretary-General concerning initial reports of 11 States parties that were due in 1990 (CAT/C/9);

(d) Note by the Secretary-General concerning initial reports of 7 States parties that were due in 1991 (CAT/C/12);

(e) Note by the Secretary-General concerning initial reports of 10 States parties that were due in 1992 (CAT/C/16/Rev.1);

(f) Note by the Secretary-General concerning second periodic reports of 26 States parties that were due in 1992 (CAT/C/17).

32. The Committee was informed that, in addition to the 11 reports that were scheduled for consideration by the Committee at its ninth session (see para. 42 below), the Secretary-General had received the additional report of China (CAT/C/7/Add.14) requested by the Committee at its fourth session under rule 67, paragraph 2, of its rules of procedure, the initial report of Peru (CAT/C/7/Add.15), and additional information from Australia (CAT/C/9/Add.11) and the United Kingdom of Great Britain and Northern Ireland.*

33. In accordance with rule 65 of the Committee's rules of procedure and its decisions, the Secretary-General continued sending reminders automatically to those States parties whose initial reports were more than 12 months overdue, and subsequent reminders every six months. In the case of reports which were more than three years overdue, the Chairman of the Committee, at its request, discussed the question of reporting obligations with the representatives of the States parties concerned or addressed a letter on the subject to the Minister for Foreign Affairs, as appropriate. Those States were Togo and Uganda, whose initial reports were due in 1988, but had not yet been received after five reminders; and Guyana, whose initial report, due in 1989, had not yet been received after four reminders.

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* Information consisting of legal and judicial texts or statistical tables was made available to the Committee, but it has not been issued as a document.

34. In addition, second reminders were sent by the Secretary-General in June 1992 to Brazil, Guinea and Poland and a third reminder to Portugal, whose initial reports were due in 1990 but had not yet been received. A first reminder was also sent in June 1992 to Paraguay and second reminders were sent in September 1992 to Guatemala and Somalia, whose initial reports were due in 1991 but had not yet been received.

Tenth session

35. At its 144th meeting, on 22 April 1993, the Committee also considered the status of submission of reports under article 19 of the Convention. In addition to the documents listed in paragraph 31 above, the Committee had before it two notes by the Secretary-General, concerning initial reports to be submitted by 6 States parties in 1993 (CAT/C/21), and second periodic reports to be submitted by 10 States parties in 1993 (CAT/C/20).

36. The Committee was informed that, in addition to the eight reports that were scheduled for consideration by the Committee at its tenth session (see para. 44 below), the Secretary-General had received the initial reports of Paraguay (CAT/C/12/Add.3) and Poland (CAT/C/9/Add.13), the second periodic reports of Ecuador (CAT/C/20/Add.1) and Egypt (CAT/C/17/Add.11) and additional information from the United Kingdom on its dependent territories (CAT/C/9/Add.14).

37. The Committee was also informed that initial reports had not yet been received from Togo and Uganda, whose reports were due in 1988, and Guyana, whose report was due in 1989. In this connection, the Committee decided that in addition to Togo and Uganda, Guyana should be requested to submit its initial and second periodic reports in one document. The Committee was informed that third reminders had been sent by the Secretary-General in January 1993 to Brazil and Guinea and a fourth reminder to Portugal, whose initial reports were due in 1990 but had not yet been received. A first reminder had also been sent in January 1993 to Malta and third reminders had been sent in March 1993 to Guatemala and Somalia, whose initial reports were due in 1991 but had not yet been received.

38. The Committee again requested the Secretary-General to continue sending reminders automatically to those States parties whose initial reports were more than 12 months overdue and subsequent reminders every six months.

39. In accordance with the decision adopted by the Committee at its seventh session, the Chairman, at the Committee's request, discussed with the representative of Portugal, whose report was more than three years overdue, the difficulties that prevented that State party from complying with its reporting obligations under the Convention. Portugal submitted its initial report (CAT/C/9/Add.15) in May 1993.

40. Finally, the Committee, noting that no reply had been received to the letters that its Chairman had addressed in July 1992 to the Ministers for Foreign Affairs of Guyana, Togo, and Uganda with regard to their overdue reports, regretted that those States parties were not complying with the obligations they had freely assumed under the Convention.

41. The status of submission of reports by States parties under article 19 of the Convention as at April 1993, the closing date of the tenth session of the Committee, appears in annex III to the present report.

IV. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

42. At its ninth and tenth sessions, the Committee examined initial reports submitted by four States parties and second periodic reports submitted by 10 States parties, under article 19, paragraph 1, of the Convention. It also examined additional reports requested from two States parties pursuant to rule 67, paragraph 2, of the rules of procedure. At its ninth session, the Committee devoted 16 of the 18 meetings held to the consideration of reports (see CAT/C/SR.119-123, 124/Add.1, 125 and Add.2, 126, 127 and Add.2, 128, 129 and Add.2, 130, 131 and Add.2, 132, 133 and Add.2, 134/Add.1, 135 and Add.2). The following reports, listed in the order in which they had been received by the Secretary-General, were before the Committee at its ninth session:

Afghanistan (initial report)	(CAT/C/5/Add.31)
Germany (initial report)	(CAT/C/12/Add.1)
United Kingdom of Great Britain and Northern Ireland: dependent territories (initial report)	(CAT/C/9/Add.10)
Norway (second periodic report)	(CAT/C/17/Add.1)
Argentina (second periodic report)	(CAT/C/17/Add.2)
Mexico (second periodic report)	(CAT/C/17/Add.3)
New Zealand (initial report)	(CAT/C/12/Add.2)
Libyan Arab Jamahiriya (additional report)	(CAT/C/9/Add.12/Rev.1)
Ukraine (second periodic report)	(CAT/C/17/Add.4)
Canada (second periodic report)	(CAT/C/17/Add.5)
Belarus (second periodic report)	(CAT/C/17/Add.6)

43. At its 119th meeting, on 9 November 1992, the Committee agreed, at the request of the Government concerned, to postpone until its tenth session the consideration of the second periodic report of Canada.

44. At its tenth session, the Committee devoted 8 of the 17 meetings held to the consideration of reports submitted by States parties (see CAT/C/SR.139-142, 142/Add.2, 143 and Add.2, 144 and Add.2, 145 and Add.2 and 146 and Add.2 and 4). The following reports listed in the order in which they had been received by the Secretary-General, were before the Committee at its tenth session:

Belize (initial report)	(CAT/C/5/Add.25)
Canada (second periodic report)	(CAT/C/17/Add.5)
Panama (second periodic report)	(CAT/C/17/Add.7)
Hungary (second periodic report)	(CAT/C/17/Add.8)
Sweden (second periodic report)	(CAT/C/17/Add.9)
China (additional report)	(CAT/C/7/Add.14)
Peru (initial report)	(CAT/C/7/Add.15)
Spain (second periodic report)	(CAT/C/17/Add.10)

45. At its 137th and 142nd meetings, on 19 and 21 April 1993, the Committee agreed, at the request of the Governments concerned, to postpone until its eleventh session the consideration of the initial reports of Belize and Peru.

46. In accordance with rule 66 of the rules of procedure of the Committee, representatives of all the reporting States were invited to attend the meetings of the Committee when their reports were examined. All of the States parties whose reports were considered by the Committee sent representatives to participate in the examination of their respective reports.

47. In accordance with the decision taken by the Committee at its fourth session, 2/ country rapporteurs and alternate rapporteurs were designated by the Chairman, in consultation with the members of the Committee during sessions and the Secretariat, for each of the reports submitted by States parties and considered by the Committee at its ninth and tenth sessions. The list of those reports and the names of the country rapporteurs and their alternates for each of them appear in annex IV to the present report.

48. In connection with its consideration of reports, the Committee also had before it the following documents:

(a) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and reservations and declarations under the Convention (CAT/C/2/Rev.2);

(b) General guidelines regarding the form and contents of initial reports to be submitted by States parties under article 19 of the Convention (CAT/C/4/Rev.2);

(c) General guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 19 of the Convention (CAT/C/14).

49. The following sections, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports, contain summaries based on the records of the meetings at which the reports were considered. More detailed information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

Afghanistan

50. The Committee considered the initial report of Afghanistan (CAT/C/5/Add.31) at its 120th and 121st meetings, on 10 November 1992 (see CAT/C/SR.120 and 121).

51. The report was introduced by the representative of the State party, who pointed out that his country was not always in a position to respect its international commitments on account of domestic problems and the lack of infrastructure needed to apply international standards. In that connection, Afghanistan would welcome any assistance that could be provided by the United Nations and the advisory services of the Centre for Human Rights. The representative drew particular attention to the fact that the report under consideration had been prepared and submitted by the previous regime, in power in January 1992, and that it had a number of shortcomings, particularly with regard to measures taken to give effect to the provisions of the Convention. Since the report had been drafted, enormous changes had taken place in Afghanistan and the new administration was combating social injustice in accordance with Islamic doctrine. The transitional government was facing difficulties due to Afghanistan's internal conflicts, but free and democratic elections would help normalize the situation. A new constitution was being drafted which was based on Islamic principles and which would be in accordance with international human rights instruments. Measures were also taken to improve the judiciary and to prevent criminal acts in the country.

52. Members of the Committee recognized the seriousness of the problems Afghanistan was facing and recalled that under the Convention no exceptional circumstances may be invoked as a justification of torture. They generally wished to know how international law was currently incorporated into domestic law, whether the Constitution quoted in the report was still in force, how the legal system of criminal law operated in Afghanistan, to what extent Islamic law

was incorporated into Afghan criminal law and whether the new regime in power considered itself bound by the international conventions ratified by the previous regime. Members of the Committee also sought clarification on the structure of the judiciary, its independence and its relation with Islamic courts. With regard to the report under consideration, members of the Committee took note of the fact that it did not reflect the point of view of the present Government and they agreed that a new comprehensive report was necessary to understand how the Convention was applied in Afghanistan.

53. With reference to article 2 of the Convention, members of the Committee requested more detailed information on the rights of persons under arrest, including the right to be informed of charges against them, the right to remain silent, the right to have their relatives informed of their whereabouts, the right to communicate with a lawyer and to be examined by a doctor of their choosing. It was also asked whether there was in Afghanistan a code of conduct for methods of interrogation, whether a register was kept of persons under arrest, whether the accused was responsible for obtaining and paying a lawyer and whether the State provided such services. In addition, information was requested on the length and conditions of police custody and the procedure through which a person held in custody was brought before a judicial official. It was asked, in this connection, whether there had been any cases of torture in Afghanistan and whether representatives of the International Committee of the Red Cross were authorized to visit detention centres in the country. It was further observed that a recent trial in Afghanistan, in which four persons had been sentenced to death, had been held in camera and that no appeal or review had been allowed and it was asked whether trials were open to the public under the new legal system and whether provision had been made for review or clemency in the case of persons convicted for serious offences.

54. With reference to article 4 of the Convention, clarification was sought as to what criminal penalties could be applied to those found guilty of practising torture.

55. In connection with article 8 of the Convention, it was observed that the constitutional provisions prohibiting the extradition of Afghan citizens to another State might not comply with the requirements of that article, unless provision was also made domestically for the prosecution of such citizens. It was pointed out that article 8 implied that even Afghan citizens must be extradited, for example, when they are accused of having committed torture in another State.

56. In connection with articles 10 and 14 of the Convention, it was asked whether education regarding the prohibition of torture was provided to various categories of medical personnel other than doctors, whether any medical rehabilitation programmes had been set up in Afghanistan, how victims of wrongful acts committed by agents of the State were compensated and whether there were statistics showing that any citizen had ever received such compensation.

57. With reference to article 15 of the Convention, clarification was requested about the sentences in the report which stated that confessions or statements obtained by compulsion were not "valid".

58. In connection with article 16 of the Convention, it was pointed out that, according to information received from Amnesty International, three persons had been publicly hanged in Kabul on 7 September 1992 and it was observed that public hangings could be regarded as cruel and degrading punishment. It was also noted that, according to the same source of information, a person in Afghanistan could be stoned to death for adultery or could be mutilated and

submitted to corporal punishment for certain crimes punishable under Islamic law and it was asked whether Afghanistan characterized such penalties as "pain or suffering arising only from, inherent in, or incidental to, lawful sanctions", as stated in article 1 of the Convention.

59. In his reply, the representative of the State party stated that since the Islamic State had been restored in Afghanistan, torture as defined in the Convention was not practised; it was considered contrary to Islamic law and prohibited by the Penal Code. The legislation mentioned in the report was still valid, but it was likely to be amended following the adoption of the new Constitution and would be brought in line with Islamic precepts. He then referred to the categories of penalty in Islamic law and stated that the principle of the separation of powers was fully respected in his country. Judges were appointed by the head of State, who also decided on their promotion on the basis of reports made by the Minister of Justice. At present, the courts applied the Shariah laws, but not very strictly. In the event of any conflict between internal law and the Convention, the Convention took precedence. The representative stressed that the current leaders of Afghanistan would respect all conventions to which the country was a party under the previous regime and would submit a more detailed report to the Committee.

60. With reference to article 2 of the Convention, the representative stated that a state of siege had not been officially decreed in Afghanistan and that, following the general amnesty, all prisoners, including criminals, had been released. There were no longer any prisons in Afghanistan, but small detention centres only. There was a system of legal aid or legal assistance for the accused, but it was somewhat unsatisfactory, mainly because Afghanistan was an underdeveloped country.

61. In connection with article 14 of the Convention, the representative pointed out that the courts determined the nature and amount of compensation for loss or injury on the basis of the relevant Islamic precepts.

Conclusions and recommendations

62. The Committee was generally of the opinion that, in view of the enormous changes Afghanistan had been going through recently, the Government of Afghanistan should submit a new report combining the information required in an initial report, an additional report and a periodic report in a single document. The new report should take account of all the questions asked and follow the general guidelines of the Committee regarding the form and contents of reports to be submitted by States parties. It should focus, in particular, on such aspects as the structure of the legal system, conditions of detention and the role of training and education; it should also clarify to what extent Islamic law was incorporated into Afghan criminal law. The new report should be submitted by the end of June 1993, so that the Committee could discuss it at its November 1993 session. The Committee further recalled that the Centre for Human Rights was at the disposal of the Government of Afghanistan to help it draft its report and to provide technical assistance in the field of human rights.

Norway

63. The Committee considered the second periodic report of Norway (CAT/C/17/Add.1) at its 122nd and 123rd meetings, on 11 November 1992 (see CAT/C/SR.122 and 123).

64. In introducing the report, the representative of the State party indicated that the investigations of 368 alleged cases of large-scale police brutality in the city of Bergen, which had been discussed in May 1989 during the

consideration by the Committee of the initial report of Norway, had resulted in only one charge; the investigation of more than 100 cases of alleged false accusations had resulted in 15 charges and 11 convictions, none of which had been appealed. No further information had been received concerning police brutality in Bergen.

65. Members of the Committee commended the Norwegian Government on the quality of its report, which had been submitted with punctuality and could serve as a model for the reports to be submitted by other States. They also noted with satisfaction Norway's support for the United Nations Voluntary Fund for Victims of Torture and the principle of preventive country visits, as contained in the draft optional protocol to the Convention which was under elaboration in a working group of the Commission on Human Rights.

66. Generally, members of the Committee felt that some clarification was necessary with regard to the incorporation of the Convention in domestic law and the implementation in practice of its provisions. They noted that Norway had a dualistic relationship between domestic law and international law, but it was not clear which legal provision took precedence and whether the Convention had actually been incorporated into domestic legislation. From the information provided, it appeared that the Convention was not a formal part of domestic law but that Norwegian courts were able to refer to international treaties in applying domestic law. Members of the Committee observed, in this connection, that the fact that Norwegian legislation did not contain a definition of torture automatically gave rise to problems with regard to the implementation of the provisions of the Convention. They therefore expressed the hope that the Norwegian authorities would reconsider their position that the term "torture or cruel, inhuman or degrading treatment or punishment" did not need to be incorporated into the country's legislation. In this regard, they wished to know what progress had been made by the Norwegian expert committee, which had been mentioned during the consideration of Norway's initial report, whose mandate was to make proposals on the way in which the major international human rights instruments could be incorporated into Norwegian legislation.

67. With regard to article 2 of the Convention, further information was requested on the authority deciding in Norway about deprivation of liberty and on the lawful period during which a person might be held in custody without being brought before a court.

68. With reference to article 3 of the Convention, members of the Committee requested information on how the 1988 Immigration Act actually worked and asked, in particular, whether foreigners, especially refugees, could be denied entry to Norway by the border police and turned back and what recourse procedure was available to them. Clarification was also sought about the indication in the report that extradition could also take place outside bilateral or multilateral agreements.

69. In connection with article 4 of the Convention, it was recalled that each State party should ensure that all acts of torture are offences under its criminal law and clarification was requested on the extent to which Norway was complying with that requirement and how it dealt with the question of mental torture.

70. Referring to article 5 of the Convention, members of the Committee wished to have some clarification on whether Norway had a system of universal jurisdiction for persons who committed torture and whether it allowed convicted persons, subject to certain conditions, to serve their sentence in their home countries, as provided for by the European Convention on the Transfer of Sentenced Persons.

71. Clarification was also requested on specific legal measures taken by Norway to implement fully articles 6, 7, 8 and 9 of the Convention.

72. In connection with article 10 of the Convention, members of the Committee recalled that training programmes were necessary not only for doctors, but also for other health personnel at all levels who had a key role to play in combating torture. It was also asked whether law faculties offered special courses which dealt with torture as a global phenomenon and approached it from the standpoint of international and domestic legislation.

73. Turning to article 11 of the Convention, members of the Committee congratulated Norway on its rules and practices with regard to the custody of persons in detention and the treatment of prisoners and requested further information on the provisions contained in the Prosecution Instructions.

74. In connection with article 12 of the Convention, members of the Committee asked for additional information on the nature of the cases referred to the "special investigative bodies" which were independent of the police and the prosecuting authority. They also asked how the special investigative bodies were set up, by whom, what their prerogatives were, why they were needed and what the role of the public prosecutors was. Members of the Committee noted that only 20 cases relating to the use of force by the police had been subjected to special investigation in Norway during the period 1988-1990 and asked for additional information in that regard. They wished to know, in particular, whether there were districts where such incidents were more common than elsewhere and whether foreigners were involved to any significant extent. With regard to the investigation of alleged police brutality in Bergen in May 1989, which had resulted in the indictment of 15 persons for having made false accusations against the police, members of the Committee wished to know whether it had been proved beyond any reasonable doubt that the persons prosecuted had intended to discredit members of the police force and what penalties had been imposed on those found guilty. Clarification was also requested on the position of the Norwegian authorities with regard to the views of Amnesty International in this matter.

75. With regard to article 14 of the Convention, members of the Committee noted that Norwegian legislation provided for financial compensation only, and in a limited amount, to victims of violence and that compensation was not granted for injury of a non-economic nature. They observed that those provisions did not meet all the requirements for compensation of victims of torture established by the Convention.

76. In connection with article 15 of the Convention, clarification was requested on whether testimonies obtained unlawfully could be admitted as evidence.

77. In his reply, the representative of the State party provided detailed information about the dualistic system in force in his country, according to which a special act was required before an international instrument became applicable in Norway. He also informed the Committee about different legal approaches recently developed by Norwegian jurists with regard to the application of international human rights instruments in domestic law. The Committee set up in 1989 to study this question had not yet submitted its report. It appeared, however, that it would propose that a number of human rights instruments should be incorporated into Norwegian law and that a high rank should be given to them in the hierarchy of legal provisions. The representative also pointed out that some provisions of the Penal Code were fully applicable to the acts referred to in article 1 of the Convention.

78. In connection with article 2 of the Convention, the representative indicated that, according to section 183 of the Criminal Procedure Act, a detained person must be brought before a judge on the day following his arrest.

79. Referring to article 3 of the Convention, the representative stated that the case of any foreigner requesting asylum at the border or invoking certain rules of humanitarian protection was referred to the Director of the Immigration Services; in any event, an asylum-seeker would not be turned back at the border. A residence permit could also be issued for humanitarian reasons. In addition, Norway had a list of countries to which foreign nationals must not be sent back. Extradition could be granted to countries with which Norway had not concluded treaties but, in such cases, it was subject to specific requirements and a final decision by the Minister for Justice.

80. With regard to article 4 of the Convention, the representative pointed out that Norwegian law made no distinction between moral and physical harm.

81. Turning to article 5 of the Convention, the representative stated that, in general, Norway implemented the principle of universal jurisdiction which was applicable to acts of torture committed abroad by Norwegian nationals, as well as to acts committed abroad by foreigners. If a person who had committed an act of torture was in danger of ill-treatment or the death penalty if he was extradited, he would be tried in Norway. The Minister for Justice had recommended that the Parliament should ratify the European Convention on the Transfer of Sentenced Persons.

82. In connection with article 10 of the Convention, the representative mentioned that the Norwegian authorities had established a fruitful dialogue with the Norwegian Medical Association, which was particularly interested in medical ethics and torture. No special instruction on torture was provided in law faculties but, in human rights courses, considerable attention was paid to United Nations conventions.

83. Referring to article 12 of the Convention, the representative explained that the investigative body set up in connection with the alleged police brutality in the city of Bergen was responsible for investigating acts committed by members of the police or prosecution bodies in the exercise of their functions. It conducted the investigation, while the public prosecutor was responsible for bringing charges. It was presided over by a judge and has been set up to ensure that abuses by the police were investigated impartially and independently of the various police forces. Once the investigation had been completed, justice followed its normal course. He also stated that there were no statistics on foreigners who might have been subjected to police brutality or on the conduct of the police in urban as opposed to rural areas and that sufficient evidence against 11 of the 15 persons charged with false accusations against the police in Bergen had been established by the jury. The views of Amnesty International in this matter had been brought to the attention of the Ministry of Justice and the Ministry of Foreign Affairs.

84. With regard to article 14 of the Convention, the representative explained in detail the compensation procedures available in Norway, which consisted of various mechanisms for both economic and non-economic losses. Claims for compensation could be linked with a criminal action and the amount of compensation was determined by the courts. The system for compensation by the State came into play when the offender was insolvent. The State was held responsible for unlawful injury caused by its agents and, in case of acts of torture committed by public officials, the amount of compensation would not be limited to NKr 150,000.

85. Referring to article 15 of the Convention, the representative stressed that no testimony obtained unlawfully was admissible, although there was no specific legislation on the matter.

Conclusions and recommendations

86. The Committee expressed the view that the second periodic report of Norway, which had been submitted punctually, showed what progress had been made in the implementation of the Convention in Norway since the Committee had dealt with the initial report in April 1989. Apart from a few points which had been cleared up during the discussion, the Committee felt that the only problem was the relationship between international law and, in particular, the Convention against Torture and Norwegian domestic law.

87. The Committee recommended that Norway should include a definition of torture in its domestic law and that it should explicitly characterize torture as a crime; that would make it possible to solve problems relating to universal jurisdiction. Another solution, equally acceptable, would be to make the Convention part of Norwegian domestic law.

Argentina

88. The second periodic report of Argentina (CAT/C/17/Add.2) was considered by the Committee at its 122nd to 124th meetings, on 11 and 12 November 1992 (see CAT/C/SR.122, 123 and 124/Add.1).

89. The report was introduced by the representative of the reporting State, who stated that, in accordance with article 27 of the Vienna Convention on the Law of Treaties, Argentina gave precedence to an international convention to which it was a party when it was in conflict with domestic law. When Argentina ratified an international instrument, the provisions immediately became applicable by domestic administrative and judicial bodies.

90. The representative also provided information on various initiatives taken by his Government with regard to the training of prison staff, changes within the legal system, new administrative measures and the provision of compensation to victims of human rights violations.

91. With regard to the training of prison officials, he indicated that the curriculum designed for them included courses on constitutional law, ethics and human rights, and public and criminal law, and that their educational programmes were placing increased emphasis on teaching tolerance and respect for human rights and dignity.

92. Concerning legislative changes, the representative stated that Act No. 23,950/91 amending Act No. 14,467 on the treatment of prisoners stipulated that no individual could be detained without a court order. If the police had sufficient reasons to detain an individual, it could do so for no more than 10 hours to check his record, as against 48 hours previously. The Code of Penal Procedure provided, inter alia, that the maximum period for which an individual could be held incommunicado had been reduced from 10 days to 72 hours. Detainees had the right to communicate with their defence counsel before being detained incommunicado. A medical examination was compulsory at the beginning of detention. The new Code of Penal Procedure also abolished the validity of "spontaneous statements" at police stations. The accused could make a statement only before a judge. The system for prison visits had been amended by the new Code, which had entered into force on 5 September 1992. The post of judge for the enforcement of sentences had been created to deal with problems in prisons,

with the assistance of medical, psychological and social welfare experts who monitored conditions of detention in prison.

93. With regard to recent administrative measures, the representative made reference to decision No. 36/91, which contains a general instruction to the members of the Public Prosecutor's Office recalling that they must comply faithfully with their legal obligations with respect to the matters dealt with in the Convention. In addition, decision No. 2/92 had been adopted, under which a computerized register containing allegations of unlawful coercion had been established.

94. With regard to compensation for victims of human rights violations, the representative stated that under Act No. 24,043, compensation to victims of detention ordered by a military court had been granted to 8,200 persons. The total compensation had amounted to $700 million. Moreover, under Decree No. 70/91, pertaining to the provision of compensation to persons detained by the police, a total of $12 million was to be granted in 470 cases and half that amount had already been paid out.

95. The members of the Committee expressed their gratitude to the Government of Argentina for its timely report and to the Government's representative for his introductory statement. Nevertheless, they observed that more information was necessary on the implementation of the Convention at the provincial level and, in this connection, they requested clarification as to the awareness existing throughout the country of the State party's obligations under the Convention. In addition, they wished to know of any specific legislation or jurisprudence which had established the precedence of provisions of international instruments over those of domestic law, especially in view of information received that the Supreme Court had handed down certain judgements in which international conventions had not been given such precedence. Members of the Committee also made reference to the 1853 National Constitution and asked whether the State party intended to replace or amend it. In addition, they requested further information on matters relating to the independence of the judiciary, particularly with regard to reported shortcomings in the selection and promotion of judges, and asked whether any legislative measures were anticipated to reform such procedures. They also wished to receive further information on the effectiveness of the methods used by the Office of the Attorney General of the nation to monitor the Government's powers in matters relating to the lack of jurisdictional response to complaints about torture-related crimes. Furthermore, members of the Committee wished to know whether any national human rights institution existed in Argentina and how it was composed and what the content was of recent reports of the National Department of Human Rights of the Ministry of the Interior.

96. Members of the Committee were particularly concerned at the apparent persistence in Argentina of ill-treatment and torture practised by sections of the police and armed forces and the apparent leniency shown by the authorities towards officials responsible for acts of torture. Reference was made, in this connection, to reports received from Amnesty International and Americas Watch, particularly with regard to the 733 allegations of ill-treatment and torture for the period 1989-1991 and that such victims appeared to be young, from poor districts and frequently dark-skinned or indigenous people. Other reports provided information about confessions obtained under torture from persons who had attacked La Tablada military barracks in 1989 and allegations of ill-treatment of detainees by the police in the capital and in Chaco and Mendoza provinces. In this connection, attention was drawn to mass media reports of the death of a 17-year-old person, Sergio Gustavo Duran, at Police Precinct No. 1 in Moron, Buenos Aires. Members of the Committee observed that intensified measures were required to deal with those situations and that those measures

should focus on compensation of the tortured; punishment of the torturers; and education of the public in general and police and doctors in particular.

97. Concerning the implementation of article 2 of the Convention, members of the Committee requested further information on the new Code of Penal Procedure, especially with regard to establishment of mechanisms for its application. They also noted that under that Code the period of incommunicado detention had been reduced from 10 to 3 days and they expressed concern both at the continued practice of incommunicado detention and at the inadequacy of the advance access to a lawyer as a means of protecting persons in such circumstances. In addition, members of the Committee recalled that derogations from certain provisions of the Convention were not allowed in times of state of emergency or siege, and asked for more information on the actions taken by Argentina to ensure conformity with its obligations in this regard.

98. With regard to article 4 of the Convention, members of the Committee requested further information on the punishment of torturers, especially as information contained in the report indicated that in one case the punishment provided for in article 144 (3) of the Penal Code had not been applied to the person found guilty of the crime of torture. In addition, attention was drawn to information about the participation of doctors in cases of torture and the need to punish such practitioners. Moreover, members of the Committee expressed concern as to whether the presidential pardon of October 1989, as applied to military officers who had committed human rights violations under the previous regime, was in strict compliance with the Convention. In illustration of this point, mention was made of two cases where investigations had not been pursued or where clemency had been granted before the holding of a trial.

99. Concerning article 10 of the Convention, members of the Committee emphasized the importance of introducing a medical ethics component into medical curricula as a means of preventing the practice of torture by doctors.

100. With regard to article 11 of the Convention, more information was sought as to the arrangement existing in Cordoba city by which lawyers could be present in all police stations and whether this arrangement was to be extended to other parts of the country.

101. In connection with article 12 of the Convention, members of the Committee drew the attention of the Government of Argentina to information received from Amnesty International and other non-governmental organizations on the alleged practice of torture during the period 1989 to 1991 and to their concern that some of the lower levels of the judiciary were failing to fulfil their obligations with regard to investigating into acts of torture. In this light, information was requested on the progress being made in police and judicial investigations into all those allegations.

102. Concerning article 13 of the Convention, members of the Committee sought additional information as to its implementation in practice, particularly with regard to a specific case brought before the court in the province of Mendoza.

103. With respect to article 14 of the Convention, members of the Committee requested further information on the provision of compensation to victims of torture. They also requested clarification as to whether legal provisions existed for paying compensation to the families of persons who had disappeared and to persons who had been detained and held at the disposal of the National Executive. Moreover, they asked why applications for compensation had to be submitted to the Ministry of the Interior for approval and whether judicial appeals against the Ministry's decision had been provided for. It was also stressed that, in addition to financial compensation, it was important for

victims of torture to receive moral and medical compensation and treatment for the injury they had suffered.

104. Replying to the questions raised with regard to the legal framework for the application of the Convention, the representative of the reporting State explained that international conventions applied throughout the federal territory of Argentina and provincial jurisdiction was transferred to the federal level. International instruments ratified by Argentina were directly applicable in the courts in the same way as domestic legislation and took precedence over it. In addition, he explained that, under new legislation, the system in force in the city of Cordoba, whereby lawyers could be present in police stations, would be extended to all parts of the country. He also indicated that the 1853 Constitution of Argentina fully guaranteed the rights of individuals and the freedoms of citizens. Its article 18 prohibited the use of ill-treatment and torture and plans to amend that text were in the early stages. Concerning the procedure for the appointment of judges, the representative informed the Committee that judges were nominated by the executive through the Ministry of Justice and appointed by agreement of the Senate. To strengthen that procedure, a Council for the Judiciary had been set up, composed of officials who took part in the appointment and dismissal of judges. Regarding the matter of national institutions established for the protection of human rights, the representative informed the Committee that two governmental bodies existed to which non-governmental organizations and citizens could make appeals in the event of alleged violations of human rights. One was the General Department of Human Rights and the Status of Women of the Ministry of Foreign Affairs and Worship and the other was the National Department of Human Rights of the Ministry of the Interior. Those two bodies could refer complaints to the courts. The report of the National Department of Human Rights of the Ministry of the Interior indicated that his Government was eager to conduct more efficient investigations of cases of unlawful coercion.

105. With reference to allegations of ill-treatment and torture reported by non-governmental organizations, the representative stated that he did not have the information necessary to provide a detailed reply. However, if Amnesty International had specific offences to denounce, it should apply to the appropriate authorities so that, if enough evidence could be collected to warrant a serious investigation, the cases would be followed up in the normal way and brought before the courts. He also indicated that his Government would reply in writing to the request for clarifications about the death of Sergio Gustavo Duran. In addition, he stated that the military personnel and police officers guilty of acts of torture at La Tablada in 1989 had been tried under ordinary law because the Defence of Democracy Act did not provide for penalties for such acts. As yet, not all sentences had been handed down and the Government of Argentina would communicate all relevant information to the Committee as soon as possible.

106. Concerning article 2 of the Convention, the representative referred to the new Code of Penal Procedure and explained that the Argentinian legal system had recently been thoroughly reorganized and that the relevant organization act had established a number of new courts. He also indicated that it had been necessary to proclaim a state of siege in the country on two occasions as a result of social tensions during the establishment of a fully democratic regime. The state of siege had not laster more than 30 days and only freedoms of assembly and movement had been restricted. The state of siege had been declared only in certain regions of the country and article 4, paragraph 2, of the International Covenant on Civil and Political Rights, prohibiting derogation from certain fundamental rights, had been fully respected.

107. With regard to article 4 of the Convention, the representative indicated that he would refer to the competent authorities the question raised on the application of article 144 (3) of the Penal Code in the case mentioned in the report. He also agreed that doctors involved in cases of torture should not be allowed to go unpunished. With regard to the questions raised about the compliance of the presidential pardon of October 1989 with the provisions of the Convention, the representative stated that pardon removed the penal consequences without wiping out an offence or the infamy attached to it.

108. In connection with article 10 of the Convention, the representative informed the Committee of the ethical training provided to doctors in Argentina. He also indicated that the University of Buenos Aires had created a chair of human rights in the School of Medicine and other faculties and that Argentina was one of the most advanced countries in that regard.

109. Regarding article 11 of the Convention, the representative explained that prohibition of access to persons being held in detention applied to members of the family and other persons, not to defence counsel. The new Code of Penal Procedure, which had reduced the period during which a person could be held incommunicado, provided that the first right of a detained person was to communicate with a lawyer, within 10 hours of his arrest.

110. In connection with articles 12 and 13 of the Convention and the concerns raised as to the non-fulfilment of the judiciary's obligations in investigating into acts of torture, the representative stated that judges had to enforce the laws as from the day following their publication; a judge who failed to do so was dismissed. With regard to the case brought to court in Mendoza, the representative informed that Committee that all the senior police officers of that Province had been dismissed.

111. With regard to article 14 of the Convention, the representative stated that the families and relatives of persons who had disappeared before 10 December 1983 received tax-exempt pensions once their claims had been made to, and approved by, a competent court. To date, 5,000 persons had received such pensions. In addition, under Decree No. 70/91, a compensation scheme had been set up for persons who had been detained and held at the disposal of the National Executive and for civilians who had been detained on the orders of the military courts before 10 December 1983. Such persons could claim for the benefits of the Decree provided that they had not received any compensation as a result of a court judgement. If a claimant's case did not correspond to the conditions of compensation laid down by the law, the claimant could appeal to the ordinary courts, which were not bound by pre-established time limits for the amount of compensation to be awarded. Additionally, victims who considered the compensation to be inadequate could appeal directly to the State or court. Under article 3 of Act No. 24,043, a claimant for compensation benefit could appeal against the partial or total rejection by the Ministry of the Interior of his application within 10 days to the Federal Administrative Court, which must then rule on the matter within 20 days.

Conclusions and recommendations

112. The Committee expressed its thanks to the Government of Argentina for having submitted its second periodic report within the time period stipulated in article 19 of the Convention and for the information and clarifications provided by the representative of the State party. The Committee also expressed its appreciation for the efforts made by Argentina to improve the human rights situation in the country, in particular, in the area of laws which relate to the purposes of the Convention.

113. The aforementioned efforts notwithstanding, the Committee expressed its deep concern at the continuing vestiges of the former regime, at the disturbing use of violent methods and torture in many cases, and at the clemency and impunity enjoyed by the perpetrators of such acts contrary to the requirements of the Convention.

114. The Committee expressed the hope that the Government of Argentina would redouble its efforts to take all legislative, judicial, administrative and other measures which would be sufficiently effective to halt and prevent the practice of torture and of all cruel, inhuman or degrading treatment or punishment and, where necessary, to punish the perpetrators of such acts.

115. The Committee further expressed the hope that the Government would submit to it as soon as possible the additional information requested by its members.

Ukraine

116. The Committee considered the second periodic report of Ukraine (CAT/C/17/Add.4) at its 125th meeting, on 12 November 1992 (see CAT/C/SR.125).

117. In introducing the report, the representative of the State party pointed out that an act on the validity of international agreements in Ukrainian territory had been promulgated on 10 December 1991 and that international agreements ratified by Ukraine formed an integral part of national law. He then referred to the changes taking place in Ukraine, which had started with the proclamation of its independence on 24 August 1991. Generally, it had been decided that the laws in force under the previous regime would be maintained if they were compatible with the new Constitution of Ukraine which was being drafted. In particular, considerable attention was being given to reducing the number of offences punishable by the death penalty and to including a definition of torture in the new codes which were being prepared. The reform of the judiciary had not yet been completed, but legal measures were under consideration to guarantee the separation of powers and the independence of the judiciary. In addition, the new Supreme Soviet of Ukraine had set up three Commissions. The first dealt with legislative activities, the second with questions of public order and the third was a human rights commission which considered complaints submitted to it. The authorities also planned to set up a new human rights institute which would be responsible for monitoring the implementation of the relevant legislation. Finally, the representative provided some information on the judicial bodies existing in Ukraine and stated that his Government was actively working on the democratization and modernization of the Ukrainian legal system.

118. Members of the Committee were of the view that the current circumstances and changes in Ukraine made it impossible to judge the results achieved and to assess how the Convention was actually implemented in that country. Perhaps a new report was needed. Furthermore, the report under consideration did not follow the Committee's general guidelines for the preparation of reports and did not refer to any specific decision or provision taken to give effect to each of the articles of the Convention; it set forth principles and said nothing about their practical implementation. No information had been provided, in particular, on measures taken in Ukraine to implement articles 3 and 5 to 15 of the Convention.

119. Members of the Committee also observed that some provisions of the Convention were reflected in national legislation but not all, and wished to know what measures were being taken to incorporate the provisions of the Convention into internal law and whether the Convention could be invoked before a court. In addition, they asked whether the public and, in particular, the

convicted prisoners and detainees were informed about the Convention, what the cases were in which human rights and freedoms could be restricted, as referred to in the Act on criminal investigation activities, and what legal grounds existed for those restrictions. Further information was requested on the amendments which had been made to existing legislation, and on law enforcement. The text of the legislation mentioned in the report was also requested.

120. In connection with article 2 of the Convention, members of the Committee wished to know, in particular, what the maximum length of pre-trial detention was, at what stage the lawyer was brought in to assist the accused person, and whether the rules governing arrest and detention applied equally to the ordinary police, the State security forces and the armed forces.

121. With reference to articles 1 and 4 of the Convention, members of the Committee wished to know whether the existing Ukrainian Penal Code gave a definition of torture, what the penalties were for public officials who violated the Convention, and whether there were any cases of torture in Ukraine.

122. With regard to articles 6 and 7 of the Convention, it was asked whether there was an immigration act in Ukraine, whether ordinary criminals and military personnel found guilty of a crime were subject to the same rules and regulations and what happened to convicted prisoners who served their sentence in another State.

123. Referring to article 10 of the Convention, members of the Committee requested information on measures taken for the training of public officials about matters relating to torture and its prohibition.

124. In his reply, the representative of Ukraine, referring to the difficult transitional period of his country, stressed that three different governments had been formed in less than one year and in such circumstances a government had no time to adopt legislation aimed at providing solutions to the problems which had been mentioned. In particular, the new codes to which reference had been made during the discussion did not yet exist. In view of the complexity of the situation, it would be very difficult, therefore, to provide supplementary information, apart from the specific information on changes which had just been reported.

125. Referring to questions of a general nature raised by the members of the Committee, the representative stated that in Ukraine the provisions of international treaties had force of law without having to be incorporated into the legislation, except in cases where implementation machinery had to be established. For example, the Convention against Torture provided for compensation to be paid to victims for injury or damage they had suffered. In that case, specific legislation had been enacted to compensate, in particular, victims of political repression. The representative also stressed that the independence of the judiciary was a guarantee against torture and confessions obtained by force and, in his view, the adoption of an act on the judiciary providing for such independence was the most important measure to be taken at present in his country. With regard to cases of restriction on the exercise of human rights, he said that, in the past, cases of restriction were kept secret, while, at present, they were established by law. For example, it was known in which cases telephone listening devices could be used and when correspondence could be opened.

126. Referring to article 2 of the Convention, the representative explained that an individual could be held in pre-trial detention for three hours but, if there were grounds for believing that he would be accused of a crime and it was necessary to hold him longer, he could be held for three days, provided that,

during the first 24 hours, the procurator had been notified of his arrest and had made sure that it had been carried out in conformity with the law. The accused could have access to a lawyer after three days and once he had been charged; that was the general rule, whether the person had been detained by the police, the army or the security forces. However, in practice, that was still not the case. The representative pointed out that, not long before, the maximum period of pre-trial detention in Ukraine could be extended by the procurator of the Union for up to one and a half years.

127. With regard to article 4 of the Convention, the representative provided figures on proceedings instituted in the last three years against public officials and members of the police force. Those figures showed that legal action had been taken against 1,567 officials in 1990, 438 in 1991 and 1,002 in 1992. He also provided additional information on the four crimes which were punishable by the death penalty under the Ukrainian Penal Code and underlined that under the Soviet Code 37 crimes had been made punishable by the death penalty.

128. With reference to articles 6 and 7 of the Convention, the representative stated that the rules applied to extradition had not yet been changed but, in his view, appropriate provisions on extradition would be included in the new Constitution.

129. With regard to article 10 of the Convention, the representative indicated that a special training institute for public officials was to be set up in Ukraine to ensure that all Government departments had competent managerial staff. The training of psychologists who would be sent to work in penal establishments would include the study of international human rights instruments and the legislation on the implementation of the Convention against Torture, in particular.

Conclusions and recommendations

130. The Committee thanked the Government of Ukraine for having submitted its second periodic report on time. It took note, in particular, of the part of the report dealing with the laws and other measures introduced to ensure respect for human rights in general and the application of the Convention in particular.

131. The Committee also noted that the second periodic report of Ukraine was not fully in accordance with the general guidelines regarding the form and contents of periodic reports and recommended that the next periodic report should describe in detail the measures planned or taken with a view to the application of the provisions of the Convention, and would appreciate it if legislative texts of interest, such as the Constitution, codes and new laws, could be transmitted as soon as they had been drawn up to the Secretariat for communication to the Committee against Torture. The Committee expressed the view that, within approximately two years, the desirability of requesting an additional report from Ukraine should be considered.

132. In addition, the Committee expressed the hope that the Supreme Council and Government of Ukraine would take all necessary steps to ensure application of the provisions and respect for the requirements of the Convention.

New Zealand

133. The initial report of New Zealand (CAT/C/12/Add.2) was considered by the Committee at its 126th and 127th meetings, on 13 November 1992 (see CAT/C/SR.126, 127 and 127/Add.2).

134. The report was introduced by the representative of the reporting State, who informed the Committee that during the period under review, and before and after that period, there had been no reports of any person being subjected to an act of torture in New Zealand.

135. The representative then provided an overview of how the Convention was put into effect in New Zealand law. He explained that this operated at three levels. First, statements of principle were contained in the New Zealand Bill of Rights Act 1990, including its section 9 which provided that "everyone has the right not to be subjected to torture, or to cruel, degrading or disproportionately severe treatment or punishment". Those principles formed the background against which the laws of New Zealand were interpreted and implemented. Secondly, there were provisions in the criminal law, particularly the Crimes of Torture Act 1989, which prescribed offences and penalties for the commission of torture. In this regard, he indicated that the Act defined torture in terms that closely followed those of article 1 of the Convention. It also provided the necessary jurisdictional basis for compliance with the requirements of article 5 of the Convention and amended New Zealand's extradition statutes so as to ensure that the principle of "extradite or prosecute" contained in articles 7 and 8 of the Convention could be implemented. Thirdly, there were various statutory, regulatory and administrative procedures for the independent investigation of complaints of misconduct on the part of public officials, including the police.

136. In addition, the representative referred to some recent cases which demonstrated how the New Zealand Bill of Rights Act 1990 had been applied by the New Zealand courts, although none of those cases concerned article 9 of the Act on the right not to be subjected to torture.

137. Finally, the representative of the reporting State indicated that concern had been expressed during the period of the Gulf War in 1991, with regard to the application and interpretation of article 3 of the Convention as it related to the treatment of persons arriving in New Zealand from other countries. The New Zealand authorities had noted that, in respect of refugee applicants, there was a certain lack of clarity about the implementation of articles 2, paragraph 2, and 3 of the Convention in relation to article 33 of the Convention relating to the Status of Refugees. Nevertheless, the practice of the New Zealand authorities was that no refugee applicant should be expelled or returned to a place where there were substantial grounds for believing that he would be in danger of being subjected to torture. New Zealand was aware that its obligations under article 3 of the Convention were not confined to persons who met the definition of a refugee but also extended to persons with well-founded fears of torture on grounds other than those listed in the Convention relating to the Status of Refugees. For those individuals, special procedures were available to obtain temporary or permanent residence on humanitarian grounds in New Zealand or to appeal against deportation.

138. The members of the Committee expressed appreciation for the excellent report submitted by the State party and wished to receive more information on the constitutional and legal framework for the application of the Convention, in particular on the jurisdiction of courts of appeal and special tribunals and on the appointment of their judges. They also sought information on the number of persons who had died in prisons and asked whether the Human Rights Commission of New Zealand could investigate broader human rights problems other than those relating to discrimination.

139. With regard to article 3 of the Convention, clarification was sought as to the possibilities for an individual denied refugee status in New Zealand on the grounds of national security to be expelled to a country other than his own.

140. Concerning article 4 of the Convention, members of the Committee requested clarification as to the role and powers of the Attorney-General with regard to instituting proceedings for the trial and punishment of a person charged with torture. They also sought further information on whether any statute of limitations existed for the pursuit of complaints by the Police Complaints Authority and the cases dealt with by that Authority.

141. In connection with articles 5 and 7 of the Convention, further information was sought on the implementation of their provisions, particularly with regard to the application of the principle of universal jurisdiction.

142. Regarding the implementation of article 6 of the Convention, members requested clarification on the provisions of sections 315 and 316 (5) of the Crimes Act of 1961, in particular with respect to the permitted length of administrative detention and the authority responsible for monitoring activities conducted by the police in accordance with those provisions. They also asked whether incommunicado detention existed.

143. Additional information was requested on the implementation of articles 8 and 9 of the Convention and, in particular, how the draft bill on mutual assistance in criminal matters met with the State party's obligations under article 9 of the Convention.

144. In connection with the implementation of article 10 of the Convention, members referred to the training and educational needs of lawyers, judges, border police and medical personnel on matters relating to torture. In addition, the usefulness of publicizing opportunities for the rehabilitation of torture victims was pointed out. It was also asked whether the Committee could receive a copy of the Police Regulations 1959 and the Police "Values Statement".

145. Concerning article 11 of the Convention, further information was sought on the legal grounds for deciding that a person who was mentally disordered should be held involuntarily in a mental care institution and the procedures available for reviewing such cases. In this connection, a copy of the Mental Health Bill was requested. With regard to the placement of children or young persons in detention, clarification was sought as to the definition of a child, young person and adult.

146. In respect of article 13 of the Convention, further information was requested on the complaint mechanisms available to victims of torture by a public official.

147. With reference to article 14 of the Convention, members of the Committee requested further information on the compensation and rehabilitation offered to victims of torture. In this regard, they sought clarification as to the compatibility of the State party's reservation to this article with article 19 (b) of the Vienna Convention on the Law of Treaties. They also requested clarification on the role of and criteria applied by the Attorney General in actions relating to the awarding of compensation. In addition, they wished to know whether civil and criminal actions for compensation could be brought simultaneously, whether a ceiling had been set on compensation and whether survivors of torture who had found asylum in New Zealand had the right to receive medical rehabilitation.

148. Concerning article 15 of the Convention, reference was made to section 20 of the Evidence Act 1908 which gave a judge the discretion to admit a confession in evidence notwithstanding that a threat had been held out to the person confessing and it was pointed out that a threat could constitute torture.

149. Replying to questions raised by members of the Committee, the representative of the reporting State explained that judges of the High Court and Court of Appeal were appointed by the Governor General. Under New Zealand law, the distinction between serious and less serious crimes depended on the court before which a case was brought; in any event, torture was a crime that would be judged by a High Court. The Court of Appeal was a permanent body consisting of six members, three of whom heard each case, and it was competent to interpret points of law or hear appeals against sentence. Jury trials were compulsory for torture offences. The representative also stated that he had no figures on the number of deaths in prison but noted that the number of suicides in prison had declined considerably from 1985 to 1991, apparently because of improved conditions for prisoners in difficulty. There had been five deaths by suicide in 1991. In addition, he indicated that the Human Rights Commission of New Zealand actively promoted human rights.

150. With regard to article 3 of the Convention, the representative considered that there was no contradiction between article 3 of the Convention and New Zealand's national security regulations. He stated, in particular, that provisional regulations had been introduced between 16 January and 30 April 1991 owing to the Gulf War. During that period two persons had been sentenced to expulsion but detained pending a review of their case. In addition, he indicated that the legal basis for the non-refoulement of persons likely to be tortured if sent back to their country was contained in section 10 of the Crimes of Torture Act and that information booklets on that requirement had been prepared for the use of frontier control officials.

151. Concerning article 4 of the Convention, the representative explained that the purpose of requiring the Attorney General's consent before proceedings could be brought under the Crimes of Torture Act was to prevent abuses but that, in the case of torture, proceedings under that Act were mandatory. He also explained that the Police Complaints Authority consisted of a lawyer appointed by the Governor General and supporting staff. At present the Authority comprised a retired High Court judge, a High Court judge and three investigators. The Authority was empowered to receive complaints and could take action on its own initiative if it considered that a death or serious injury involving a police officer should be investigated. With respect to the number of cases dealt with by the Authority, he indicated that 462 investigations had been conducted over a period of two years, that two police officers had been brought to trial and one had been convicted. He also indicated that 52 other complaints had been upheld but no proceedings initiated and that other sanctions could be imposed, such as psychological assistance for police officers and reprimands.

152. Referring to article 5 of the Convention, the representative indicated that it would be contrary to New Zealand's established legal practice to establish jurisdiction to deal with offences on the basis of the nationality of the victim.

153. In respect of article 6, the representative informed the Committee of safeguards to which arrests were subject. He also stated that in practice any person arrested was brought before a court within 24 hours, that the police received appropriate training and respected the law on the declaration of rights and that the practice of holding persons incommunicado did not exist in New Zealand.

154. Referring to questions raised in connection with article 8 of the Convention, he explained, inter alia, that the Crimes of Torture Act provided for the competence of New Zealand authorities to bring proceedings against

anyone suspected of having committed an offence under article 4 of the Convention and who happened to be in New Zealand, regardless of his nationality.

155. Concerning article 10 of the Convention, he provided information on the training handbooks and other publications prepared for or distributed to the police, prison personnel and medical and nursing personnel to educate them about matters relating to the difficult situation of refugees or to prevent any form of ill-treatment and torture.

156. In respect of questions raised with regard to article 11 of the Convention, the representative informed the Committee that the new Mental Health Act of 1 November 1992 limited compulsory treatment in psychiatric hospitals, defined very carefully the rights of patients and provided for legal remedies. He also explained that under the Children, Young Persons and Their Families Act, a "child" was someone under the age of 14 and a "youth" was someone over 14 but less than 17 who had never married.

157. With regard to article 14 of the Convention, the representative indicated that the reservation entered by New Zealand was considered by his Government to be compatible with the purpose and goal of the Convention and not contrary to international law. He also explained the procedure in place for accident compensation, and stated that the term accident covered rape and torture and that such compensation did not prejudge criminal proceedings.

Conclusions and recommendations

158. The Committee expressed its gratitude for the report, its presentation and the clarifications provided by the representative of New Zealand. It considered the report to be comprehensive and objective. It also expressed its satisfaction that the report indicated that no one in New Zealand had been convicted of or charged with committing an act of torture and that there had been no report of torture having taken place in New Zealand, either in the period under review or before or since that time.

159. The Committee considered that the articles of the Convention seemed to be incorporated in New Zealand's legislation, specifically in the Crimes of Torture Act of 1989, which had been promulgated in connection with New Zealand's ratification of the Convention.

160. The Committee during its discussions raised the issue of the State party's reservation to one of the core articles of the Convention, article 14, regarding compensation for victims of torture. The Committee expressed the hope that the New Zealand authorities would review that reservation to ensure its full compliance with the articles of the Convention.

Germany

161. The Committee considered the initial report of Germany (CAT/C/12/Add.1) at its 128th and 129th meetings, on 16 November 1992 (see CAT/C/SR.128, 129 and 129/Add.2).

162. The report was introduced by the representative of the State party, who stressed that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment was a feature of the German Constitution and other legislation. That prohibition was part of the principle that human dignity should be respected, as established by the Federal Constitutional Court. He then pointed out that the German Penal Code did not contain a general offence of "torture"; however, there were specific offences such as assault and battery in office which would be penalized in the manner provided for by the Convention.

In addition, under the provisions on remand custody, arrest warrants had to meet certain requirements, confinement could be reviewed at any time and it was more difficult for remand custody to be extended beyond six months. Prisoners in remand custody or sentenced in connection with terrorist offences were treated in the same way as other prisoners.

163. Legal remedies in Germany were not restricted to the domestic level. Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms was directly applicable in Germany and citizens could file applications with the European Commission on Human Rights. Germany had also recognized the jurisdiction of the European Court of Human Rights in accordance with article 46 of the European Convention. According to the statistics of the European Court, there had been no instance where Germany had been deemed to have violated the prohibition against torture contained in article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. One case was, however, pending.

164. Furthermore, the representative referred to training and instructions given to State employees and public officials to ensure that torture was not practised. With regard to the manifestations of violence directed against foreigners which had recently taken place in the country, he stated that both the Federal Government and the Länder were taking great pains to put an end to such acts. He also referred to sections 51 (1) and 53 (1) of the Aliens Act, which contained provisions implementing article 3 of the Convention.

165. Members of the Committee generally wished to know why the German Penal Code did not contain specific provisions for combating torture, which was an offence specifically mentioned in international human rights instruments and defined by the Convention against Torture, whether German legislation was directly applicable in the five new Länder, whether the current State assumed jurisdiction for acts of cruel or inhuman punishment committed by officials of the former State, with regard in particular to prisoners and detainees, and whether compensation was being paid to the victims of the former regime. Information was also requested on the workings of the German judiciary and on measures concerning legal aid. It was particularly asked whether the Convention took precedence over the German Constitution.

166. In connection with article 2 of the Convention, members of the Committee sought clarification on the concept of "remand custody" in Germany and on the use of force by the police in accordance with the law. They also wished to know whether there was any circumstance that allowed the police to hold a person incommunicado and for how long, and how long a judge could keep a person in custody.

167. With regard to article 4 of the Convention, members of the Committee wondered whether, in the absence of specific provisions on torture, some gaps existed in German legislation in respect of prohibiting certain aspects of torture, such as psychological pressure, threats and intimidation. They also wished to know what other persons in office, apart from teachers, had been convicted by German courts for assault and battery and what the maximum sentence was for serious cases of bodily harm caused by a public official.

168. With reference to articles 5, 6, 7 and 8 of the Convention, clarification was requested on the full implementation of their provisions by German legislation. It was wondered, in particular whether the principle of discretionary prosecution was not in conflict with certain obligations under the Convention.

169. In relation to article 9 of the Convention, it was recalled that its provisions required that judicial assistance should be granted to all other States parties to the Convention, regardless of whether a treaty on mutual assistance existed, and it was asked whether that requirement was being met in accordance with the principle that the provisions of a convention to which Germany was a party were applied directly.

170. With regard to article 10 of the Convention, it was pointed out that its provisions specifically required medical personnel and the police to be educated about torture and the treatment of torture victims. It was also asked whether there was in Germany a code of ethics for the police and prison staff and whether any effort was being made in faculties of law to instil awareness of the question of torture.

171. As for article 11 of the Convention, more information was requested on measures to prevent violations of human rights during interrogations by the police.

172. Turning to article 14 of the Convention, members of the Committee wished to know whether the compensation referred to in the report concerned torture only or also include other forms of ill-treatment, which court had jurisdiction to hear requests for compensation and whether such cases could be brought before criminal, civil and administrative courts at the same time.

173. In his reply, the representative of Germany stated that, in his country, the concept of torture was hedged about by a body of extremely strict rules; he referred, in particular, to article 104, paragraph 1, of the Basic Law which provided that a person who had been arrested could not be subjected to mental or physical ill-treatment. He also explained that, since the signature of the Unification Treaty on 31 August 1990, the five new Länder which previously constituted the territory of the German Democratic Republic had been united with the Federal Republic of Germany and all the international treaties ratified by the latter and all the laws and codes which had been in force there were fully applicable to them. A number of exceptions were, however, admitted by the Unification Treaty to take into account difficulties connected with the transition period. The applicability of the Convention against Torture in Germany was guaranteed by article 59, paragraph 2, of the Constitution, which provided for the procedure to incorporate an international instrument in national legislation.

174. The representative further informed the Committee that recently a law providing compensation for injustices committed in the German Democratic Republic had been promulgated. It would be followed by a series of other laws that would benefit the victims, and persons who had been imprisoned unjustly would be compensated. Hundreds of proceedings had been initiated in the new Länder for torture and extortion of confessions. Members of the security forces or public officials who had ill-treated prisoners and even caused their death in the German Democratic Republic were subject to punishment. The problem of retroactivity did not arise in such cases since ill-treatment had also been punishable in the German Democratic Republic. A body of case law now existed ensuring the applicability of the law to persons accused of offences committed in the former German Democratic Republic and several members of the militia had been sentenced for killing persons who had tried to cross the Berlin wall. The representative also provided information about the organization of the German judicial system and pointed out that judges were independent and could not be removed from office. Financial assistance was provided by the State to persons who were completely unable to pay the costs of legal proceedings. In addition, the State must, if the situation so required, assign a lawyer to assist a person suspected of a crime or assist the presumed victims. In case of conflict

between German law and Germany's international obligations, precedence was given to international obligations over any others. That case had never arisen, however.

175. In connection with article 2 of the Convention, the representative explained that the police was required to bring any person who had been arrested before a judge on the day following his arrest; the judge informed the person of the charges against him as well as of his rights. The suspect could call the lawyer of his choice and refuse to make any statements in his absence. Persons who were suspected or accused of terrorism were treated in the same way as other offenders. A person placed in remand custody could at any time request the judge to interrupt his detention. Within a period of six months at most, the Supreme Court of the Land had to rule whether remand custody was not too severe a measure in relation to the charges and circumstances of the case. The representative further explained that the use of violence by the police within the limits authorized by law concerned situations such as body searches, fingerprinting etc., where the suspect refused to comply with police instructions. In that kind of situation, the police acted in accordance with the principle of proportionality; in other words, the restraint used should be proportional to the end sought. On the other hand, the representative informed the Committee that investigations were being carried out in two cases of ill-treatment allegedly suffered by persons arrested by the police, which had been reported by Amnesty International.

176. With regard to article 4 of the Convention, the representative pointed out that under article 223 of the German Penal Code, physical or moral ill-treatment was punishable and that any person causing serious bodily harm to, or jeopardizing the health of another person could be sentenced to a maximum of three years' imprisonment. In this connection, he referred to a number of judgements handed down by the courts in respect of different kinds of physical or mental ill-treatment. For the same crime, an official such as a police officer could incur much more severe punishment than an ordinary citizen, since he could be sentenced to 5 years' imprisonment and, in very serious cases, to 15 years' imprisonment. The extortion of testimony by mental torture was also an offence under German Criminal Law and confessions obtained under duress could not be used before a court.

177. With reference to articles 5, 6, 7 and 8 of the Convention, the representative stated that a foreigner suspected of having committed torture abroad could be brought before a German court, if the country of origin did not request his extradition. However, the government procurator could not, under article 153(c) of the Code of Criminal Procedure, institute proceedings in certain circumstances, as when the person concerned had already been sentenced abroad for the same offence or if an additional sentence might constitute unduly severe punishment.

178. In connection with articles 10 and 11 of the Convention, the representative referred, in particular, to directives concerning the training of officials with a view to making them aware of the need to respect strictly article 136 (a) of the Code of Criminal Procedure providing that confessions obtained under duress could not be used before the court. The representative acknowledged that not only personnel responsible for the application of laws, but also medical personnel, health workers, psychologists, psychiatrists and social educators should be fully informed about matters connected with torture and that work in that field should be intensified.

179. Referring to article 14 of the Convention, the representative explained that the normal rule of responsibility for the commission of illegal acts applied to public officials; any wrong done to persons or damage to property

justified a request for compensation for material and non-pecuniary damage. Requests for compensation had to be addressed to the administration and then to a court.

Conclusions and recommendations

180. The Committee thanked the Government of Germany for its clear, comprehensive and objective report and its representatives for the pertinent replies they provided to the questions submitted to them. The Committee welcomed the legal and administrative measures that had been taken in Germany to prevent and, where necessary, punish torture, and it was pleased to note that Germany was doing everything in its power to fulfil the obligations it had assumed in ratifying the Convention. The Committee requested the German authorities to inform it of the result of the investigation initiated in Bremen into the incidents brought to its attention; and also requested the Government of Germany to envisage the possibility of making the declarations necessary to be bound by articles 21 and 22 of the Convention.

Libyan Arab Jamahiriya

181. The Committee considered the additional report of the Libyan Arab Jamahiriya (CAT/C/9/Add.12/Rev.1) at its 130th and 135th meetings, on 17 and 19 November 1992 (see CAT/C/SR.130, 135 and 135/Add.2).

182. The report was introduced by the representative of the State party, who highlighted the information contained in it with regard to the political system, the legislative, the executive and the judicial authorities of the Libyan Arab Jamahiriya, as well as the legal framework for the implementation of the Convention. The representative also stressed that the report dealt with other questions raised by the members of the Committee during their consideration of the initial report.

183. Generally, members of the Committee wished to receive more information on the way in which the Convention was implemented in the Libyan Arab Jamahiriya. It was asked, in this connection, whether the Convention had become part of the country's legislation, whether the courts applied the Convention directly and whether an individual could base his actions on the principles embodied in the Convention. More information was also requested on the structure and functioning of the judiciary. It was asked, in particular, how judges were appointed, whether judges could be dismissed, and if so, by which authority, whether there was a disciplinary body to ensure that they carried out their duties properly, whether the Supreme Court operated as a Constitutional Court and whether it had the function of determining the legality of legislation and the consistency of law with the Great Green Document on Human Rights in the Age of the Masses. It was also asked whether there was any organic link between the police officer or the department who arrested an individual and the authority which instituted criminal proceedings on the one hand, and the investigating authorities and the courts which handed down sentences, on the other; whether the Attorney General was responsible for investigations or whether it was the examining magistrate or another body; who had the authority to consider questions concerning detention by the police and whether Libyan law provided that no case could be heard in the absence of a defence lawyer. In addition, members of the Committee sought clarification about the People's Court and its relationship with civil, criminal and other courts, the role of the personal status courts which applied Islamic law, and the legal effects of the individual amnesty. It was further asked whether the Libyan Arab Jamahiriya was prepared to accept the optional provisions contained in articles 21 and 22 of the Convention.

184. In connection with article 2 of the Convention, members of the Committee raised several questions to clarify what rights a detained person had, especially during the critical period immediately after he had been taken in charge by the police. They wished to know, in particular, whether a person could be held incommunicado, whether he was entitled to medical examination, and when and how the accused was able to obtain the assistance of a defence counsel. It was observed that the information provided in the report with regard to police custody and interrogation of an arrested person was somewhat confusing and required clarification. It was asked, in this connection, how preventive detention was defined in the Libyan Arab Jamahiriya, what the legal time-limits were and when it was applied.

185. Turning to article 3 of the Convention, members of the Committee wished to know whether the provisions of that article were being applied directly in the Libyan Arab Jamahiriya, whether the non-extradition of any person who would be in danger of torture was effectively guaranteed under the law and, in this connection, what the difference was between the acts of a freedom fighter and a terrorist act and what criteria were used to decide to which category an act belonged.

186. With regard to article 4 of the Convention, clarification was sought about the types of penalties provided by the Libyan Penal Code for persons guilty of torture and the sentences handed down by the criminal courts in cases of acts of torture, particularly when those acts had resulted in the death of the victim. Members of the Committee also asked for clarification on the scope of the term "torture", as used in article 435 of the Penal Code, on whether it covered both physical and mental or moral suffering and on how mental torture was punished under Libyan law. Furthermore, it was noted that, under article 167 of the Civil Code, a person would be held responsible for his unlawful acts committed at a time when he was able to distinguish between right and wrong and it was asked what criteria were applied in law to distinguish between right and wrong.

187. Concerning article 8 of the Convention, it was asked whether, if the Libyan authorities learned of the presence in the country's territory of a person who was a national of a country with which the Libyan Arab Jamahiriya had no extradition treaty and who was accused of torture in a country with which no extradition treaty existed either, jurisdiction existed under domestic law so that the person concerned might be arrested and brought to trial.

188. With regard to article 9 of the Convention, it was asked what arrangements had been made by the Libyan Arab Jamahiriya in respect of mutual judicial assistance and whether relevant treaties had been signed with other States parties to the Convention.

189. Referring to article 10 of the Convention, members of the Committee wished to know how special education in matters relating to torture for border police, doctors and members of the health profession was provided in the Libyan Arab Jamahiriya and whether the Universal Declaration of Human Rights and the Convention were included in the training programmes.

190. It was noted that the report contained no reference to article 11 of the Convention and information was requested on the implementation of its provisions. It was asked, in particular, whether prison inspections by representatives of non-governmental organizations were permitted.

191. In connection with article 12 of the Convention, reference was made to a particular case included in the report of the Special Rapporteur of the Commission on Human Rights on questions relating to torture (E/CN.4/1992/17) and

since no reply on the case had been given by the Libyan authorities, information was requested in that regard.

192. In respect of article 13 of the Convention, members of the Committee wished to know who the parties were who could bring allegations of torture, whether injured parties could request the Attorney General to initiate criminal proceedings and, in case of refusal, whether there was any alternative remedy. Statistics on the number of complaints actually made were also requested.

193. As for article 14 of the Convention, members of the Committee wished to know whether it was necessary to await a verdict before a claim for compensation could be filed, whether the State assumed responsibility for compensation in the case of a public official guilty of torture who was unable to pay and what the competence was of administrative courts in matters relating to compensation. It was also asked whether the Libyan Arab Jamahiriya supported the United Nations Voluntary Fund for Victims of Torture and intended to set up special medical centres to treat victims of torture.

194. In connection with article 16 of the Convention, members of the Committee wished to know how the death sentence was imposed, whether executions were public, whether there were statistics on how many persons had been sentenced to death and how many sentences had been carried out. They noted that economic crimes were punishable by death under the Libyan Penal Code and they observed that such a penalty seemed to be out of proportion to the nature of the crime.

195. In his reply, the representative of the State party provided detailed information on the structure and functioning of the judiciary in his country. He stated, in particular, that the Libyan judicial system was based on the principle of accusation and defence and that members of the Department of Public Prosecutions were selected during the People's Congress. Judges were appointed by the General People's Committee and could be sanctioned or revoked for violation of the rules governing their functions, or for incapacity in general, following an investigation and on the decision of the Ministry of Justice. The Supreme Court could hear motions for annulment or appeals against judgements handed down in the civil, criminal or administrative courts. It also played the role of a constitutional court and had the power to annul laws if they were found to be unconstitutional. Furthermore, the representative explained that preliminary investigations were carried out by a legally qualified official of the Department of Public Prosecutions. The record of the investigation was then transmitted to the Attorney General. Bodies responsible for legal proceedings were independent of those that handed down judgements. Under the law, any person who had been charged could be assisted by a lawyer; the court itself designated a lawyer where necessary. The representative also pointed out that the People's Court was competent to hear appeals against measures or decisions prejudicial to the freedom and basic rights of citizens and its competence was quite different from that of the civil, criminal and administrative courts. Islamic courts heard only cases connected with civil status, marriage, divorce, the custody of children etc. Amnesty, both general and individual, removed the criminal taint of the offence committed and expunged the punishment. If a person had committed a large number of offences, only those listed in the amnesty order were pardoned. An individual amnesty was granted in respect of either a specific crime or a particular person.

196. Referring to article 2 of the Convention, the representative provided information on the conditions of police custody and stated that police custody could not exceed 24 hours from the time of arrest. In the case of particularly serious crimes, the investigation was conducted in secret. In such cases the accused was entitled to the services of a lawyer; if he lacked the necessary measures, the State had to assign one to him. The accused had the right to

remain silent. If there was enough proof against the accused, the Department of Public Prosecutions could extend his detention up to six days for purposes of the investigation. Any further extension had to be justified by that Department and decided by the judge or the Indictment Division, as appropriate. The representative stressed that, according to the Libyan Penal Code, preventive measures could be imposed only within the limits specified by the law.

197. In connection with article 3 of the Convention, the representative stated that under the Libyan Penal Code the extradition of a person charged with a criminal offence which was politically motivated was prohibited. Equally, a political refugee or a person likely to be tortured could not be extradited. In any case, the provisions of article 3 of the Convention were enforceable in the Libyan Arab Jamahiriya.

198. In respect of article 4 of the Convention, the representative explained that the period of imprisonment for a person found guilty of torture varied from a minimum of three years up to a maximum of seven years. Hard labour was a secondary punishment supplementing the main one. Even though torture was punishable under Libyan law, the Penal Code did not contain a definition of torture, nor specific provisions concerning mental torture. As for the distinction between right and wrong, he stated that it depended, as in any society, on the philosophy underlying legislation.

199. With reference to articles 8 and 9 of the Convention, the representative stated that if a foreigner engaged in acts of torture, he would be tried in accordance with Libyan legislation and in the light of the provisions of the Convention. The Libyan Arab Jamahiriya had not concluded any extradition agreement with other States concerning torture. Extradition agreements concerning criminals had, however, been concluded in the framework of the Arab League.

200. Referring to articles 10 and 11 of the Convention, he stated that ways of instructing police and medical personnel in human rights matters were under discussion in his country and that the possibility of allowing external bodies to visit Libyan prisons was still being studied.

201. In connection with article 13 of the Convention, the representative explained that, under Libyan criminal law, a complainant could request the Department of Public Prosecutions to bring a public action on his behalf in certain cases. However, with regard to crimes involving torture, article 435 of the Penal Code provided for a public action by that Department and sanctions against a public official who ordered or committed torture, regardless whether the victim had filed a complaint or not. Any alleged victim of torture could submit a complaint directly to the Attorney General, who was required by law to prosecute the accused. In addition, the provisions of the Convention could be invoked before the courts.

202. Referring to article 14 of the Convention, the representative explained that, under Libyan law, requests for compensation for torture victims could be handled by the criminal courts or could be the subject of an independent action in a civil court. It was for the victim to choose the course that was more favourable to him. If the person found guilty of torture was a civil servant, damages were paid by the State. The representative also stated that his country had contributed in the past to the United Nations Voluntary Fund for Victims of Torture and that the Libyan authorities would examine the desirability of establishing a special centre for the rehabilitation of torture victims.

203. In connection with article 16 of the Convention, the representative indicated that capital punishment was carried out in the prison itself or in

other closed premises. Four murderers had recently been sentenced to death. The general tendency was to restrict the application of capital punishment to a limited number of crimes. Economic crimes punishable by death were defined in article 4 of the Law on Economic Crimes and included deliberate sabotage of installations, such as those for petroleum production, which were vital for the national economy. Executions were not carried out in public, but television programmes were referring to them when they dealt with problems connected with criminality. The list of the death sentences that had been handed down would be transmitted to the Committee at a later stage.

Conclusions and recommendations

204. The Committee expressed its thanks to the Libyan Arab Jamahiriya and its representative for having provided, in the additional report and during the presentation of that document, replies to the questions raised by the Committee during its consideration, in November 1991, of the initial report. The replies provided enabled the Committee to evaluate the efforts made by the Libyan Arab Jamahiriya to implement the Convention; the Committee considered that the Libyan legal system was in conformity with the Convention.

205. The Committee also stated that it was awaiting with impatience the second periodic report of the Libyan Arab Jamahiriya, due in June 1994, and that it would be grateful if that report would describe the application of the Convention article by article.

206. The Committee's attention had been drawn to a few cases of torture in the country in connection with which the Libyan Arab Jamahiriya had taken legal action. The Committee noted the action taken and urged the Libyan Arab Jamahiriya to continue to take the necessary measures to eliminate and prevent torture.

207. The Committee requested information on the number of cases of torture in which proceedings had been instituted and on the results of those proceedings. It appreciated the way in which the Libyan Arab Jamahiriya, through its representative, had made sincere efforts to reply to its questions.

Mexico

208. The second periodic report of Mexico (CAT/C/17/Add.3) was considered by the Committee at its 130th and 131st meetings, on 17 November 1992 (see CAT/C/SR.130, 131 and 131/Add.2).

209. The report was introduced by the representative of the reporting State, who described the most important legislative, administrative and judicial measures taken to prevent and punish torture during the period 1988 to 1992. In this connection, he drew attention to the establishment of the National Commission on Human Rights in 1990 and its acquisition of constitutional status in 1992. The representative also outlined the activities of that Commission. They included, first, the investigation of complaints of human rights violations, such as allegations of torture. In this regard, he indicated that the Commission made public recommendations to the competent authorities and could request information from them in the course of its investigations. Secondly, the Commission made proposals for action, which included the adoption of administrative measures and the amendment of national legislation, to improve the State party's compliance with its international human rights obligations. Thirdly, the Commission was active in developing awareness of human rights for the public, in general, and in providing training and education in the area of the prevention of human rights violations for administration of justice officials, in particular.

210. With regard to particular legislative reforms, the representative informed the Committee that the Federal Executive had endorsed a number of proposals made by the National Commission on Human Rights, which had led to changes in the Federal and State Penal Codes and in the Federal and Federal District Codes of Penal Procedure and that those changes had been approved by Congress. Following another proposal by the Commission, draft legislation had been introduced to amend the Federal Act on the Responsibilities of Public Servants with a view to making it obligatory for the latter to provide information that the Commission requested in the course of its investigations. The representative also informed the Committee that the Congress had found it necessary to amend the 1986 Federal Act to Prevent and Punish Torture. This had resulted in the introduction of the new Federal Act to Prevent and Punish Torture which had expanded the procedural rights of persons under investigation for an offence and made provision for the benefits of a pardon or amnesty to be extended to the most needy. The new Act also provided for the non-admittance as evidence of both confessions made to police authorities and statements made to the Public Prosecutor's Department or judicial authority without the presence of the accused person's defence counsel or confidant, and where appropriate, interpreter. In addition, the new Act provided for the harsher penalization of those found guilty of torture, through the imposition of a possible 3-to-12-year prison sentence and their obligation, in certain cases, to meet the legal advice, medical and other costs incurred to provide redress for injury and compensation to the victim or his dependants.

211. With regard to administrative reforms, the representative made mention of the various programmes and procedures which had been introduced by the Attorney General's Office to ensure better treatment of detainees and respect for their human rights. Such action included the establishment of an Internal Control Unit, within the Office of the Attorney General, to detect, investigate and punish torture in order to prevent the impunity of offenders.

212. Finally, the representative provided details of the breakdown of the number of complaints of torture during the period from June 1990 to June 1992, which indicated that such complaints had fallen in number. He also made mention of the number of investigations, criminal proceedings and recommendations for action which had emerged from complaints of human rights violations. In this regard, he stated, inter alia, that from June 1990 to May 1992 the Commission had made 34 recommendations concerning torture to the Attorney General's Office. In 13 cases, criminal proceedings had been instituted. Those 13 cases had involved 37 public officials who had been imprisoned pending trial.

213. The members of the Committee expressed appreciation to the State party for its informative report and introductory statement. They also welcomed the various measures taken by the State party to combat torture which, they considered, were a reflection of its political commitment to comply with the provisions of the Convention. However, they expressed concern at the repots they had received from non-governmental organizations which appeared to point to the continued practice of torture, particularly by the judicial police. It also appeared that confessions occupied an important place in the system of evidence and that the police felt obliged to obtain confessions even through means of torture. In this connection, it was stated, inter alia, that an example of that endemic practice was that State officials prosecuted for having practised torture themselves complained that they were forced to confess under torture. Members of the Committee observed with concern that the judicial police, in particular those officials who were responsible for acts of torture, seemed to enjoy a high degree of impunity in Mexico.

214. With regard to matters of a general nature, members of the Committee requested clarification on how legislation and other measures were actually applied under the Mexican federal system. They also requested further

information on the work of the National Commission on Human Rights regarding, in particular, the Commission's classification of complaints; the number of the complaints that it received which were related to torture; and the follow-up to the Commission's recommendations regarding those complaints. They were also interested to know more about the Commission's conciliation process, which had led to settlements out of court, and requested clarification as to whether that process might lead to impunity for those responsible for torture-related offences. In addition, reference was made to the statement of the National Commission on Human Rights, contained in the State party's report, according to which in many cases involving torture there was no evidence or indication of the alleged torture and that many forms of torture left no visible marks that might merit a medical certificate. In this regard, it was indicated that although it took time to detect traces and effects of torture, it was possible for physicians who had received specialized training on the subject of the treatment of torture victims to uncover reliable proof or indications of torture. In addition, further information was sought on any reports received on the programmes of the Office of the Attorney General, and the State party's intention of making a declaration under articles 21 and 22 of the Convention.

215. With reference to article 1 of the Convention, it was asked why the new Act to Prevent and Punish Torture did not use the exact wording of article 1 of the Convention in defining torture.

216. In relation to article 4 of the Convention, members of the Committee requested further information on the penalties imposed on those found guilty of acts of torture, particularly with regard to the 266 officials referred to in the report. In addition, reference was made to the report of the National Commission on Human Rights, which indicated that, contrary to legislation and to article 4, paragraph 2, of the Convention, there had been a number of cases in which persons responsible for violations had not been punished. It was observed that such a statement reinforced the impression that those responsible for torture were enjoying impunity.

217. Concerning the application of article 10 of the Convention, members of the Committee wished to receive further information, on the training of medical personnel. In this connection, the importance of informing doctors about methods of torture, means of diagnosis and the possibilities of rehabilitating torture victims was emphasized. It was also indicated that doctors specialized in that field could assist the National Commission of Human Rights in its work and in combating the impunity of human rights violators. In addition, clarification was requested as to whether the contents of training manuals for the police were in harmony with the new measures adopted by the State party to prevent and combat torture.

218. In respect of article 11 of the Convention, further information was sought as to a detainee's right to a medical examination.

219. With reference to articles 12 and 13 of the Convention, members of the Committee sought further information on the procedures of the National Commission on Human Rights for investigating into complaints of torture and how such procedures worked in practice. In this connection, concern was expressed, inter alia, at the difficulties involved in investigating complaints where victims could not identify the persons responsible for violating their human rights.

220. In connection with article 15 of the Convention, the attention of the Government of Mexico was drawn to information indicating that there were repeated instances in Mexican courts in which statements made to the police were admitted as evidence and giving greater credence than subsequent statements in

which they were denied. Furthermore, Amnesty International and other non-governmental organizations had reported many such cases in which evidence of torture had been produced, but there appeared to be no review of the original confessions made by the victims under police interrogation.

221. Replying to the questions raised, the representative of Mexico indicated that his Government was prepared to provide additional information on matters raised by the Committee and emphasized his Government's commitment to the task of putting an end to torture. The representative clarified that the National Commission on Human Rights was an independent body with branches in various states and regions of the country. It consisted of representatives from various professional backgrounds and its activities were interrelated with those of the ombudsman, social bodies and non-governmental organizations. Actions of the Commission were not simply confined to investigations but extended to prosecutions and sentences. Arrest warrants followed from recommendations contained in the Commission's reports. The Commission's report for the period from December 1992 to June 1992, in particular, included information on the 4,503 complaints received and on violations of the rights of journalists. It also provided a detailed account of 110 recommendations made and an indication of the follow-up to the recommendations. The report also presented programmes concerning disappeared persons, the prison system and a special programme to examine violations of the rights of journalists. The representative pointed out that the reports of the National Commission on Human Rights, particularly its special reports, constituted a way of bringing pressure to bear on those responsible for torture and ill-treatment by stimulating the awareness of the public at large. Nevertheless, the impact of the new machinery could not be felt immediately. The authorities were encountering resistance at the local level as local bodies did not always find it easy to accept central State supervision and to be made accountable for their actions.

222. With regard to article 4 of the Convention, the representative provided information on prosecutions and sentences that followed investigations into human rights abuses. For example, the person responsible for the ill-treatment of a journalist named Rodolfo Morales had been sentenced to 15 years' imprisonment. With reference to the enforcement of sentences, he indicated that proceedings took a long time and illustrated this point with the case of Richard Lopez who had been tortured and died as a result in July 1990, yet those found guilty of that act had been sentenced in October 1992. They had been sentenced to 44 years' imprisonment for homicide and abuse of authority.

223. Concerning article 10 of the Convention, the representative informed the Committee that a National Day against Torture had been proclaimed in Mexico. He also indicated that efforts were being made to stimulate awareness of human rights and that although it was difficult for such efforts to take root, non-governmental organizations were providing valuable support in this regard.

224. In connection with article 11 of the Convention, the representative explained that information on the rights of detainees and the remedies available to them for the protection of their rights had been widely disseminated. In this regard, mention was made of the circular from the Procurator General which stated that every detainee had to undergo a medical examination at the time of his arrest, and of a press communiqué, issued by the Office of the Attorney General, which had indicated that a medical examination of a detainee would be given at the time of his arrest or imprisonment and upon his release.

225. With regard to articles 12 and 13 of the Convention, the representative pointed out that under paragraph 31 of the Organic Law, a complaint of human rights abuse could be admitted, even if a complainant were unable to identify

the State officials who had violated his rights, if the subsequent investigation made it possible to establish responsibility.

Conclusions and recommendations

226. The Committee expressed its sincere thanks to the Government of Mexico for its well-documented periodic report, and for the frank explanations provided orally in response to questions raised.

227. The Committee noted with satisfaction the many legislative, judicial and administrative measures that had been adopted by that Government with a view to the implementation of the provisions of the Convention. It noted in particular the establishment of the National Commission on Human Rights with the status of a constitutional body, the promulgation of the Federal Act to Prevent and Punish Torture, the amendment of the Federal Code of Penal Procedure, the various measures taken by the Procurator General of the Republic, as well as the many human rights education, training and information programmes.

228. However, the Committee noted with deep concern that, according even to the official sources, an extremely large number of acts of torture of all kinds were perpetrated in Mexico despite the existence of a legal and administrative act designed to prevent and punish them. In that respect, the number of torturers that have been punished is small in comparison to the number of complaints.

229. The Committee hoped that the Government's political will and the various measures adopted will have the desired effect, and in particular that those guilty of acts of torture will not remain unpunished. The Committee would be grateful if the Government of Mexico transmitted to it, within 18 months, additional information on the specific measures already adopted, in particular on the punishment of those responsible for acts of torture.

Belarus

230. The Committee considered the second periodic report of Belarus (CAT/C/17/Add.6) at its 132nd to 134th meetings, on 18 and 19 November 1992 (see CAT/C/SR.132, 133/Add.2 and 134/Add.1).

231. The report was introduced by the representative of the State party, who declared that since the submission of the initial report there had been momentous changes in the political, legislative, economic and judicial life of Belarus. Those changes had found their reflection in a draft constitution which was being considered on second reading in the Supreme Soviet of Belarus. He emphasized that the measures designed to protect human rights included, besides the new Constitution, the establishment of a Constitutional Court, the separation of powers and the parliament's decision to implement judicial reforms, among them the introduction of a new criminal and civil code and a review of the status of judges, as well as the ratification of the first Optional Protocol to the International Covenant on Civil and Political Rights. The Republic of Belarus had heeded the advice the Committee had given it during consideration of the initial report and had given priority to the inclusion in the Constitution of provisions of the Convention which had not existed in the previous Constitution. On the basis of the new Constitution, the Ministry of Justice had prepared a Draft Code of Criminal Procedure and was reviewing the labour and other codes, ensuring notably that they complied with the provisions of the Convention against Torture.

232. The representative informed the Committee that, according to the new Constitution, no one could be subjected to torture and other cruel, inhuman or degrading treatment and a person could not be forced to undergo medical or other

examination without his consent; the restriction of personal freedom was subject to stringent conditions laid down by law; persons in custody were entitled to request a judicial review or examination of their detention or arrest; citizens were entitled to seek compensation before the courts for any material or physical damage; they also had the right to legal assistance paid out of State funds.

233. The representative stated that the Republic of Belarus recognized the primacy of international law. If any legislation of Belarus conflicted with the provisions of an international agreement to which Belarus was a party, the agreement took precedence. Courts were therefore free to apply international instruments, for instance the Convention against Torture, directly.

234. Members of the Committee stated that the oral introduction by the Belarus delegation had helped clarify a number of queries that they had about the supplementary report, which was somewhat short and had not provided all the answers the Committee had hoped for. Having welcomed the changes in legislation aimed at improving the legal system and combating torture, they requested the delegation to provide information on whether individual cases of torture existed in Belarus and statistics and information on the specific measures taken to combat torture and other treatment or punishment which was incompatible with respect for human dignity. Members of the Committee also wanted to know what the current situation was with regard to the death penalty and what the legal provisions were for carrying out the death penalty. They sought further clarification on the actual procedure followed when there was a conflict between domestic law and an article of the Convention.

235. Members of the Committee were interested to know how the country was coping with difficulties caused by the weight of the past; how the judicial bodies, the police and the administration were proceeding with current changes; whether a parliamentary commission dealing with human rights existed in Belarus; whether Belarus intended to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty; whether Belarus would make the declaration under articles 21 and 22 of the Convention against Torture and whether it would consider recognizing the competence of the Committee under article 20.

236. With respect to article 3 of the Convention, members of the Committee asked what was being done to implement that article and whether new provisions were being planned to that effect.

237. In connection with article 6 of the Convention, members of the Committee, having noted that detention in Belarus could extend to up to six months from the date of the arrest, drew the attention of the delegation to the statement made at the time of the consideration of the initial report of Belarus, according to which custody could not last more than three days, and requested clarification on that discrepancy. They wished to know exactly what the maximum period of detention was and whether pre-trial detention meant that a person was detained until sentencing.

238. Concerning article 7 of the Convention, members of the Committee sought further information on the rights of the defence and in particular asked how that complex problem was covered in the new draft code of criminal procedure; whether there were cases in which no defence counsel was present and whether the presence of a lawyer was compulsory in cases concerning torture.

239. Regarding article 8 of the Convention, members of the Committee noted that no information had been given about the question of extradition and asked whether legislation was in line with the relevant provisions of the Convention.

240. With respect to article 10 of the Convention, members of the Committee wished to know what efforts were being made to disseminate information on the Convention in the population and among detainees; what training was being provided to jurists, to prison staff in corrective labour institutions and to the medical personnel; and whether there had been any exchanges in the courses taught in faculties of law to include questions of human rights and, in particular, efforts to combat torture.

241. Concerning article 14 of the Convention, members of the Committee wished to know what results had been achieved in terms of rehabilitation of the victims of repression during the period of the personality cult. They also requested further details on the compensation of victims of repression. In addition, they asked who was responsible for compensation; whether the victim could initiate proceedings to obtain compensation, and to bring an action against the State and against the person who had tortured him; what measures were being taken to bring former torturers to justice; what measures had been taken to ensure medical rehabilitation of the victims of torture.

242. With reference to article 16 of the Convention, members of the Committee wished to know under what circumstances a person could be held in isolation; what the relevant legal provisions were in this respect and whether the isolation was a preventive measure or was applied once a final judgement had been pronounced; what the minimum and maximum period of detention in isolation cells was and who decided whether to place persons in isolation cells.

243. In reply, the representative of the State party described his country's three categories of courts, remarking in particular that in judicial matters an effort was being made to avoid a sudden break with the past and to emphasize the gradual reform of institutions, phased over a period of one or two years. Now judges were elected for life and their independence was guaranteed, which had not been the case in the past. The competence of the Public Security Committee had been strictly defined and limited and measures had also been taken to restrict the possibilities of intervention by the Ministry of the Interior. The Government Procurator's Office was being transformed into an independent organization that would no longer be able to bring pressure on the courts. However, the entire reform process was complicated by the difficult economic situation and its consequences, especially the increase in criminality. Under a draft law currently before Parliament, the constitutional court would consist of 10 judges elected by the Parliament. Should that court detect any irregularity or incompatibility, it could amend the texts in question and it would even be empowered to annul any unlawful decisions of the Supreme Council of the Republic. At its first session, the Supreme Council had established a Standing Parliamentary Commission on transparency, the media and human rights.

244. Since 1975, the number of capital offences had declined considerably; capital punishment was rarely carried out and was regarded above all as a deterrent. Under the draft criminal code currently being examined, capital punishment would be retained for a total of four major crimes, namely homicide with aggravating circumstances, high treason, genocide and acts of terrorism.

245. International law took precedence over domestic law. In the event of a conflict between international rules and the provisions of domestic law, international law prevailed. That principle was embodied in the Republic's declaration of sovereignty. The law of 25 August 1991 contained a declaration that international instruments were applied directly. The courts were required to use ratified international conventions as models and to ensure that they were applied. He would not fail to raise with his country's competent authorities the question of the Committee's concern regarding the declarations provided for under articles 21 and 22 of the Convention.

246. Concerning article 1 of the Convention, he explained why the legislation of Belarus did not contain a definition of torture: in particular, the definition set out in the Convention, while applicable in Belarus, did not, in the opinion of his country's experts, cover all possible cases. In such circumstances, the courts could, in his view, be called upon to determine for themselves, on a case-by-case basis, whether an act constituted torture.

247. Regarding article 4 of the Convention, he said that in 1992 the courts had sentenced five torturers, four of them to deprivation of liberty for one to four years. In addition, disciplinary measures had been taken against 300 officials of the Government Procurator's Office in the Ministry of the Interior who had been found guilty of abusing their powers. The maximum punishment for persons found guilty of torture or ill-treatment was 10 years' imprisonment.

248. Concerning article 7 of the Convention, he said that, under the new provisions of article 49 of the Code of Criminal Procedure, any person who was arrested was authorized to contact a lawyer as soon as he was charged and, in any event, within 24 hours of his arrest. He had the right to meet his lawyer as often as necessary and to be heard only in the lawyer's presence. However, a detainee who refused a lawyer's assistance would not be forced to accept it. Nevertheless, the participation of a lawyer was mandatory when the accused was liable to a death sentence and in a few other cases. When accused or detained persons were impecunious, their legal aid costs were defrayed by the State.

249. Regarding article 8 of the Convention, he said that the constituent republics of the Commonwealth of Independent States were currently drafting an extradition convention. Naturally, when there was compelling evidence that, if extradited, a person would be tortured, extradition was refused. He quoted specific examples of recent practice in that respect.

250. Concerning article 10 of the Convention, he informed the Committee that the text of the Convention and of the ratification decree had been published and widely disseminated in Belarus. The third edition of the compendium of all international instruments of which Belarus was a signatory had also been published and was available in bookshops and libraries throughout the country. Seminars on the international human rights norms to be respected were held for officials, particularly judicial officials, parliamentary representatives and members of the militia. Regarding the training of medical and prison personnel, a basic and advanced training centre had been opened at Minsk in 1988. Instruction was given there in the rules laid down by international instruments, particularly the obligations under the Convention against Torture.

251. Concerning article 11 of the Convention, he said that when detainees asked to undergo a medical examination because they alleged torture or ill-treatment, their request was granted.

252. With respect to article 14 of the Convention, he said that at its first session in 1990 the Parliament of Belarus had established a Standing Parliamentary Commission for the rehabilitation of victims of repression. In addition, a law had been adopted on rehabilitation procedures for such victims. At its current session, the Supreme Council had before it two new draft laws, one on supplementary measures for compensating victims of repression and the other on the amounts of such compensation. More than 120,000 cases connected with the rehabilitation of victims of repression would be examined within the next two or three years.

253. With respect to the rehabilitation of torture victims, a specialized hospital had been established near Minsk in 1990 for disabled ex-servicemen, but also for victims of Stalin's repressive policies, and persons who had recently

been victims of torture or ill-treatment. The cost of treating victims was borne by the State. Torture victims were also entitled to free consultations and outpatient treatment.

254. Compensation for victims was obtainable only through the State, which could bring actions against offenders, whether they were members of the police or of another body. Each request for compensation had to be addressed to the judge trying the offence involving torture or ill-treatment. The judge granted redress for the material injury and the moral wrong suffered by the victim.

255. Regarding article 16 of the Convention, he said that a person accused of a serious offence could, if necessary, be detained incommunicado for 72 hours. A detainee guilty of violating prison regulations could be placed in solitary confinement for a maximum of two months. That form of isolation was not contrary to the relevant international rules.

256. The authorities of Belarus were prepared to provide the Committee with the texts of the main draft laws under discussion and would be extremely grateful to it for any assistance it could provide in the creation of a State based on the rule of law.

Conclusions and recommendations

257. The Committee thanked the Government of Belarus for its timely, but incomplete periodic report; it also thanked the representatives of Belarus for the additional information and clarification provided.

258. The Committee noted that the political and legal situation in Belarus allowed for reforms that were broad and far-reaching enough to eliminate torture and other cruel, inhuman or degrading treatment or punishment.

259. The Committee especially congratulated the Government of Belarus on its new plans for a modern Constitution, a Criminal Code, a Code of Criminal Procedure and a Prisons Code, which should be in keeping with the provisions of the Convention so as to guarantee its full implementation in the territory of Belarus.

260. The Committee recommended that the Centre for Human Rights of the United Nations Secretariat should provide the Government of Belarus, at its request, with advisory services in legal matters and the training of the personnel referred to in article 10 of the Convention. It would also be grateful if it could be kept fully informed of the legislative and other measures taken and the results achieved in the implementation of the Convention.

United Kingdom of Great Britain and Northern Ireland: dependent territories

261. The Committee considered the initial report of the United Kingdom of Great Britain and Northern Ireland on its dependent territories (CAT/C/9/Add.10) at its 132nd and 133rd meetings, on 18 November 1992 (see CAT/C/SR.132, 133 and 133/Add.2).

262. The report was introduced by the representative of the State party, who pointed out that, in addition to the nine dependent territories covered by the report (Anguilla, British Virgin Islands, Cayman Islands, Falkland Islands (Malvinas), Gibraltar, Montserrat, Pitcairn, Saint Helena and Turks and Caicos Islands), the Convention would be extended by the end of the year to the other remaining dependent territories, namely, Bermuda, the Channel Islands, Hong Kong and the Isle of Man. The representative then outlined the history and the main socio-economic conditions of the nine dependent territories under consideration

and pointed out that they were all inhabited by democratic communities which had a very large measure of local autonomy and very similar legal systems based on the English system.

263. He stated that all the dependent territories except the British Virgin Islands, the Cayman Islands, Pitcairn and Saint Helena had human rights provisions in their Constitutions, in each case modelled on and derived from the European Convention on Human Rights; and each contained a provision explicitly prohibiting torture and inhuman or degrading treatment or punishment. In all cases, the constitutional provisions also included an enforcement provision giving anyone who claimed to have been subjected to or threatened with torture or inhuman treatment the right to have access to the Supreme Court and giving the Supreme Court the power to grant whatever redress the circumstances of the case required.

264. In addition, the dependent territories had legislative and administrative measures which laid down in great detail the procedure that the police must follow in dealing with detained persons, in particular with regard to their treatment, interrogation, the admissibility in evidence of confessions etc. In the Falkland Islands (Malvinas) and Saint Helena those measures corresponded almost exactly to the United Kingdom Police and Criminal Evidence Act of 1984 and the various codes of practice promulgated under it. In the other territories, those measures had been elaborated by the Judges' Rules, a set of administrative rules drawn up originally in 1913 and revised from time to time by the judges and brought up to date, as necessary.

265. The representative also pointed out that the discretion to refuse to extradite, accorded to the Home Secretary in the United Kingdom and to the governors in the dependent territories, would be used in the sense of non-extradition in cases where there were substantial grounds for believing there to be a danger of torture. On the other hand, adequate powers were available in all circumstances for the extradition of alleged torturers in accordance with the provisions of articles 7 and 8 of the Convention.

266. Members of the Committee expressed general satisfaction at the way in which the Convention was being implemented in the United Kingdom dependent territories and focused their attention on certain points which needed clarification.

267. With reference to article 2 of the Convention, information was requested on procedures concerning custody and preventive detention and, in particular, their legal duration, especially in Gibraltar where there was a heavy inflow of immigrants and economic refugees. It was also asked whether the dependent territories had any military forces and, if so, whether the rules relating to power of arrest, interrogation and bringing before a court that applied to the civilian police forces also applied to military forces. In addition, it was asked how soon after being taken into custody a person was brought before the judge, whether legal aid was available, whether a person could be held incommunicado and whether persons on remand were segregated from convicted prisoners.

268. With reference to article 3 of the Convention, it was asked how the extradition laws of the United Kingdom came into play in connection with expulsion or return (refoulement).

269. In connection with article 7 of the Convention, some clarifications were requested about the text of provisions relevant to its implementation which were contained in section 134 of the Criminal Justice Act 1988. It was also observed that some of the dependent territories were relatively close to places where torture was known to be practised and that it was likely that torturers fled

there. In that connection, it was asked whether information was available concerning the arrest and arraignment of such individuals or their extradition to non-Commonwealth countries.

270. With reference to articles 8 and 9 of the Convention, members of the Committee wished to have further assurance that the rules governing their implementation in the dependent territories were applied to all States parties to the Convention, whether or not they had signed an extradition treaty or a treaty on mutual judicial assistance with the United Kingdom. Additional information on the scope of mutual judicial assistance was also requested and it was recalled that such assistance should, according to the Convention, extend beyond the process of extradition.

271. With regard to article 10 of the Convention, members of the Committee wished to know how education and information on the question of torture were imparted to police officers and prison staff in the dependent territories. It was stressed that postgraduate training for doctors and other health professionals, with emphasis on diagnosis and rehabilitation, and training for border police in the identification of victims of torture, were particularly important.

272. In connection with articles 12 and 13 of the Convention, it was asked whether there had been any recent cases of torture in any of the dependent territories, and whether bodies analogous to Gibraltar's Police Complaints Board existed in any of the other dependent territories.

273. Referring to article 14 of the Convention, members of the Committee wished to know whether there were criminal injuries compensation schemes in the dependent territories and whether the principle of vicarious liability of the State applied with regard to compensation.

274. In connection with article 15 of the Convention, it was noted that, according to the part of the report on the Cayman Islands, answers to questions by the police "may be inadmissible in evidence" if the Judges' Rules were disobeyed. It was observed that those Rules provided that answers to questions must be obtained voluntarily and not under duress and therefore a more categorical statement of inadmissibility seemed to be necessary.

275. With regard to article 16 of the Convention, it was asked whether corporal punishment was resorted to under any circumstances, either as part of a sentence or as a disciplinary measure.

276. In his reply, the representative of the State party, referring to article 2 of the Convention, indicated that in the United Kingdom dependent territories a person could be arrested and detained only if he was legitimately suspected of having committed a criminal offence or for purposes of extradition. Detention incommunicado was authorized only in very special circumstances and for a very limited time. The time that elapsed between a person's arrest and his being brought before a court varied, but in practice the maximum time was in general 48 hours. In certain territories prison regulations required the separation of pre-trial detainees from those who had been sentenced, whereas in others, the smaller ones, separation was not possible because of size limitations. Equally, the Constitutions of certain territories provided that anyone who was charged with an offence could have himself represented by a lawyer at State expense, but even in the absence of a provision of that kind, the defence of the accused was paid for by the State in the event of a serious offence. As for the power granted to the military, he explained that most of the territories did not have any armed forces. Where armed forces were maintained they had no police powers

or power of arrest save in very exceptional circumstances. In such cases all the rules concerning arrest and questioning were applicable to the military.

277. With reference to articles 8 and 9 of the Convention, the representative stated that a person could be extradited if the offence for which he was sought was an act of torture prohibited by law, in accordance with United Kingdom legislation. In addition, most of the territories intended to adopt legislation based on criminal legislation in force in the United Kingdom which established extensive machinery for international cooperation in criminal cases.

278. With regard to article 10 of the Convention, the representative stated that medical personnel and police officials in the dependent territories were trained in prohibition against torture in accordance with international standards on the subject. The texts of the rules applicable in human rights matters were disseminated and available in all medical centres and police stations.

279. In respect of article 12 of the Convention, the representative stated that no case of torture had been reported in the dependent territories since well before the entry into force of the Convention.

280. Referring to article 14 of the Convention, the representative explained that virtually all territories had legislation equivalent to the Crown Proceedings Act of 1946, under which an action could be brought against a Government that was supposed to be responsible for the acts of its agents. In addition, provisions of the Penal Code or Code of Criminal Procedure made it possible to order an individual to pay compensation to his victim. Criminal courts could, therefore, sentence the guilty party to imprisonment and also order him to compensate the victim. A civil court in which the victim had brought an action to obtain redress for any wrong suffered would take into account the fact that part of that wrong had already been compensated under the criminal procedure.

281. In connection with article 15 of the Convention, the representative clarified that, if it was alleged that confessions had been obtained or could have been obtained under duress, the court was required to declare them inadmissible unless the prosecution was able to prove that that had not been the case. The court has no discretion to admit an involuntary confession. The court does, however, have discretion in cases where confessions have been obtained voluntarily but not in conformity with the law.

282. Turning to article 16 of the Convention, the representative stated that corporal punishment existed in certain territories. It was imposed as a disciplinary measure for detainees and was also practised in the schools. The Government of the United Kingdom deplored the maintenance of corporal punishment and had urged the territories to abolish it. Some had done so whereas others had not. It was difficult for the United Kingdom to bring pressure to bear in that matter, since it was within the competence of the territories themselves.

Conclusions and recommendations

283. The comprehensive report on the dependent territories of the United Kingdom was received with pleasure by the Committee, particularly as no cases of torture were noted to have occurred in the territories during the period reviewed. The territories appeared to be governed in accordance with the obligations in the Convention and the Committee congratulated the Government of the United Kingdom in this respect. The Committee was, however, interested in receiving more detail pertaining to cases of corporal punishment in the territories retaining it. The nature and incidence of such punishment, together with details of the crime and the characteristics of the offender, should be forwarded to the

Committee when the information is gathered. The Committee also looked forward to receiving the other information that the representative of the United Kingdom agreed to forward to it.

Canada

284. The Committee considered the second periodic report of Canada (CAT/C/17/Add.5) at its 139th and 140th meetings, on 20 April 1993 (see CAT/C/SR.139 and 140).

285. The representative of the reporting State introduced the report and indicated that the preparation of the report had entailed close cooperation between the federal, provincial and territorial governments and had provided those governments with the opportunity to review the state of implementation of the Convention within their respective areas of competence. He also outlined the recent activities undertaken by his Government in both international and domestic forums to counter torture, excessive force and other cruel, inhuman or degrading treatment or punishment.

286. With regard to initiatives taken at the international level, the representative mentioned, in particular, his Government's support of efforts aimed at providing for the operation and expenses of all human rights treaty bodies, including those of the Committee against Torture, from the United Nations regular budget. He also referred to the importance his Government attached to the elaboration of an optional protocol to the Convention against Torture. In addition, he spoke of the regular contribution his Government made to the United Nations Voluntary Fund for Victims of Torture.

287. Concerning initiatives at the domestic level, the representative referred to measures being taken to improve general conditions of incarceration for women, especially in meeting the needs of aboriginal women in correctional settings. In this regard, he outlines the innovative developments which had resulted from the recommendations of a recent Task Force on Federally Sentenced Women.

288. The representative also made reference to police reforms in Quebec, providing details of the new Code of Ethics for Quebec police officers, adopted on 1 September 1991, which had established duties and standards of conduct for police officers in their relations with the public. Information was also provided on two new bodies, namely the Commissioner for Police Ethics and the Comité de déontologie policière, which had been created to ensure respect for the standards prescribed in that Code.

289. Additionally, the representative described recent developments in police force training standards introduced in the province of Ontario. He further indicated that the effectiveness, safety and success of those new measures were being monitored carefully and that their use was expected to extend to police agencies throughout Canada.

290. Finally, the representative made reference to the work of the Canadian Centre for Victims of Torture and to various activities of the Centre for which the Government provided funding.

291. Members of the Committee asked various questions of a general nature. They asked what measures had been taken at the level of domestic law, prior to the ratification of the Convention, to ensure its compatibility with the provisions of the Convention. They also wished to receive further details of the legal competence of the different levels of government in the Canadian federal system in the application of the provisions of the Convention, especially with regard

to the jurisdiction of judges, and of any difficulties the federal system had posed in the compilation and provision of statistics on torture-related matters. Further information was also sought on matters relating to the alleged maltreatment of two immigrants of Chinese origin by the police authorities in Vancouver and the ill-treatment of Mohawk Indians by Quebec police forces in 1990, especially in relation to the outcome of those complaints and the impartiality of any inquiries undertaken on those incidents.

292. Referring to article 2 of the Convention, members of the Committee requested clarification as to the application of different provisions of the Criminal Code for the offence of torture, especially regarding the effect of the inclusion of section 7 (3.71) of the Criminal Code, which made war crimes and crimes against humanity a criminal offence.

293. In connection with article 3 of the Convention, members of the Committee requested further information on the action taken by the Government of Canada to ensure compatibility with the provisions of that article, especially on the issue of non-refoulement. In this connection they recalled that persons who were refused entry or refugee status should not be returned to countries where there was a risk that they might be subjected to torture. Moreover, it was asked whether the Government of Canada considered that extraditing a person to a country where he could face the death penalty subjected that person to inhuman and degrading treatment.

294. Concerning articles 5 to 9 of the Convention, members of the Committee wished to receive further information on the legislative measures taken to provide judges in Canada with the competence of universal jurisdiction on torture-related matters. They also wished to know more about the application of mutual judicial assistance between Canada and other States, especially with regard to the offence of torture, where no bilateral agreement existed.

295. With regard to article 10 of the Convention, members of the Committee wished to know whether education on torture-related matters was being applied restrictively or in the widest possible manner and in this connection they wished to know of any special training on torture-related matters being given to the military and border police, and to all medical personnel in Canada.

296. In connection with articles 12 and 13 of the Convention, members of the Committee requested further information on the procedures available to individuals to initiate charges and proceedings against ill-treatment or abuse of power committed by police authorities. In particular, they sought information on the work of the Public Complaints Commission, the Commissioner for Police Ethics and the Comité de déontologie policière.

297. Concerning article 14 of the Convention, members of the Committee sought further information not only on the possibilities available for the rehabilitation and treatment of torture victims but also on the remedies and compensation available to victims of ill-treatment even in cases where the alleged perpetrator had been acquitted.

298. With regard to article 16 of the Convention, attention was drawn to acts which constituted cruel, inhuman or degrading treatment and to the seeming association between society's tolerance of physical chastisement in the home environment and the acceptance of violence. In this connection, it was asked whether corporal punishment of children by parents was practised in Canada and what was the legal basis for that practice.

299. Replying to the questions of a general nature, the representative of the reporting State informed the Committee of the changes that had been made to

Canadian law prior to the Convention's ratification so as to ensure its compliance with specific provisions of the Convention. The representative also provided information and explanations with regard to the division of legislative powers under the federal structure of Canada. He stated that collection of statistical information on matters related to the Convention was complicated by the division of powers in Canada. Consultations with relevant government departments responsible for collecting such data would be held and more information of that nature would be included in the next report. Furthermore, with regard to the alleged ill-treatment of two persons in Vancouver, the representative indicated that the Committee would be provided with an updated report on the findings of the independent commission appointed by the Province of British Columbia to inquire into municipal policing. He also informed the Committee that the independent Public Complaints Commission had already carried out an investigation and that the two persons in question had apparently instituted proceedings against the officers concerned. In connection with the allegations of ill-treatment of Mohawk Indians by Quebec police forces in 1990, the representative stated that four of the cases had been raised before 1 September 1990 and had thus been considered under the former system through submission to the Complaints Committee of Quebec's Department of Public Security, which had rejected the cases on various grounds. However, the Committee's decisions were subject to appeal. Under the new provisions on police conduct in Quebec all complaints would be considered in the first instance by the Commissioner for Police Ethics. This had happened in one case which had occurred after 1 September 1990 and, as a result of the inquiry by the Commissioner, certain police officers had been brought before the Comité de déontologie policière, which would decide on the matter in the autumn of 1993.

300. Regarding article 2 of the Convention, the representative explained that the Criminal Code contained not only the offence of torture but also war crimes and crimes against humanity and that, while crimes against humanity could well include torture, such crimes also demanded that other conditions be met, for example, that the offending act had been committed against a civilian population or identifiable group of persons. Where an accused was charged with conduct which fulfilled the definition of both sections, the accused could be convicted of only one offence. Moreover, the defence of obedience to de facto authority was not available to an individual charged with a war crime or a crime against humanity.

301. With regard to article 3 of the Convention, the representative told the Committee that Canada's refugee determination system fully complied with the Convention's requirements relating to torture allegations. In this connection, he described the training given to immigration officers, which had been developed with the assistance of the Office of the United Nations High Commissioner for Refugees (UNHCR), and the various provisions and procedures available to individuals to make a claim for refugee status. He also indicated that the success rate for refugee claimants in Canada had been recognized by UNHCR as the highest in the world and that the refugee determination system would be kept under continuous review to maintain its high standards. With regard to the concern raised that a person might be extradited to face the death penalty the representative referred to various debates on the issue in the Human Rights Committee and in the Supreme Court of Canada.

302. In connection with article 5 of the Convention, the representative explained that, in the Canadian Criminal Code, the offence of torture was subject to universal jurisdiction. Thus, any judge, whether provincial or federal, who had the authority to hear criminal trials could rely on the universal jurisdiction of that Code.

303. Concerning articles 8 and 9 of the Convention, the representative indicated that Canada could cooperate with another country in accordance with those articles regardless of whether bilateral treaties on mutual legal assistance existed. As an example of how the procedure of mutual legal assistance was applied in practice, information was given on the assistance given by Canada at the request of Chile in connection with a torture-related prosecution there.

304. With regard to article 10 of the Convention, the representative informed the Committee of the training on the Convention and other related matters given to various public officials, including members of the correctional service and recruits for the Royal Canadian Mounted Police. Canadian armed forces called upon to assist civil authorities during a riot or disturbance in Canada or participating in United Nations peace-keeping and humanitarian operations outside Canada received specific training in, inter alia, the use of minimum force. The representative also indicated that he was unaware of specific training given to medical doctors on the detection of torture and more information on that subject would be sought.

305. In connection with articles 12 and 13 of the Convention, the representative outlined the procedures available to an individual alleging torture by the police, which included personal prosecution of the offence. Such actions may be brought by the individual under the provisions of the Criminal Code or the Canadian Charter of Rights and Freedoms, or through the filing of a complaint with the Royal Canadian Mounted Police. Moreover, civil redress may be sought under the Crown Liability Act or at common law. Since the Royal Canadian Mounted Police Public Complaints Commission had become operational in 1988 it had held 12 hearings, 5 of which had concerned excessive force.

306. With regard to article 14 of the Convention, the representative outlined several aspects of compensation arrangements in Canada for criminal injuries following a police investigation. He indicated, for example, that compensation might be provided in the case of an accused person acquitted on the merits of a charge or in the case of an acquittal on technical grounds. Such compensation provisions stemmed from special funds established by the Government. Equally, an injured party might seek compensation or other remedies through the courts, even if the offender was a government official.

307. Concerning article 16 of the Convention, the representative informed the Committee of the statement by the Supreme Court of Canada, in the case of Regina V. Smith, that there were certain punishments which would always offend the protection against cruel and unusual punishment in section 12 of the Canadian Charter of Rights and Freedoms and that included corporal punishment. Furthermore, the Federal Government was re-examining a provision of the Criminal Code which permitted reasonable force by a parent or schoolteacher in the correction of a child.

Conclusions and recommendations

308. The Committee expressed its appreciation to the Government of Canada, not only for its comprehensive report but also for the measures and efforts undertaken by the Canadian authorities in compliance with the provisions of the Convention.

309. The Committee also expressed its thanks for the excellent presentation by the Canadian delegation and in this regard noted with satisfaction the various clarifications provided by the delegation in response to the questions raised by members of the Committee during its examination of the State party's report.

310. Nevertheless, the Committee expected to be provided with further details on the training of health personnel and the outcome of the inquiries conducted by the Canadian authorities relating to two immigrants of Chinese origin, in addition to the statistics requested by the Committee.

Panama

311. The Committee considered the second periodic report of Panama (CAT/C/17/Add.7) at its 141st and 142nd meetings, on 21 April 1993 (see CAT/C/SR.141 and 142).

312. The report was introduced by the representative of the State party, who informed the Committee of the efforts his Government had made to improve and adapt the Panamanian penal and penitentiary system to contemporary requirements and of the progress that had been made in bringing the Panamanian justice system into conformity with the Convention. He indicated that those tasks had not been made easier following the events of 20 December 1989, which had led to the destruction of the penitentiary centres and an increase in crime.

313. The representative also provided further information of general interest, relating to the separation of powers between the legislative, judicial and executive branches of government and to the organization and structure of the administration of justice in Panama. In particular, reference was made to the powers and composition of the Supreme Court of Justice and its four chambers, one of which, namely the Administrative Division, following the adoption of a recent law, had the power to annul any administrative decisions that undermined the protection of human rights or were not in conformity with the standards provided for in the international human rights instruments to which Panama was a party.

314. The representative also provided a description of the role of the Public Prosecutor, the Attorney General and the staff of the Public Prosecutor's Department in the prosecution of crimes. It was indicated that an inquiry into the prosecution of a crime could be opened by the Public Prosecutor on the basis of information received from the media or other sources without the necessity of an individual complaint or accusation. The legal process in place for the prosecution of crimes consisted of three stages. During each stage all the guarantees of due process were respected, for example, presumption of innocence, right to, and contact with, a lawyer, provision of instructions relating to preventive detention, recourse to habeas corpus and prohibition of coercion. The inquiry procedure, or first stage, was of a maximum duration of two months except in exceptional circumstances, when it could be extended for another two months. Once the inquiry had been completed, the process entered its second or intermediate phase with the accused brought before the competent court. Within 15 working days the court had to decide on the merits of the inquiry. In extreme cases, the court could return the case to the Public Prosecutor in order that further inquiries be undertaken. The third stage was preceded by a given period to permit the defence to gather the necessary evidence and to determine whether to challenge the evidence presented by the prosecutor and appeal against the proceedings so far undertaken. On the basis of the evidence before the court, a decision by the court would be pronounced within 10 days. The accused had the right to appeal to a higher court against any sentence handed down to him.

315. In addition, the representative indicated the measures taken by Panama to ensure the impartiality and independence of the judiciary. He mentioned, in particular, the Council of Judicial Ethics, which evaluated and handed down rulings on complaints from victims of violations of certain ethical or moral principles during judicial procedures.

316. Recently efforts had been made to reduce preventive detention, sentencing to prison and the prison population, through, inter alia, the revision of the penal system.

317. Finally, the representative of the reporting State outlined more specific measures that had been taken to implement the provisions of the Convention, which included the incorporation within domestic law of the definition of torture and penalties for the violation of human rights ranging from 6 months to 15 years' imprisonment and mutual legal assistance in matters of extradition. The representative also indicated the importance his Government attached to meeting the requirements of its international human rights obligations and in this connection referred to the construction and functioning of a model prison at La Joya.

318. The members of the Committee expressed their appreciation for the information contained in the report and that provided by the representative of the State party. They also observed that they had received no allegations that torture was practised in Panama. Nevertheless, they wished to receive more information on how the provisions of the Convention, especially article 1, had been incorporated within domestic law. They also requested further information on the status of the Convention in domestic law and on the 23 court decisions relating to the implementation of the Convention, referred to in the report. They wished to receive further information on the organization, functions and independence of the judiciary and administrators. They also wished to receive information on the number of persons in detention, particularly political prisoners, and asked whether the public had welcomed the measures taken by the Government on the depenalization of the judicial system. Further information was also sought on the work of the Panamanian Commission on Human Rights, especially with regard to torture-related matters, and whether non-governmental organizations could regularly inspect and visit prisons and places of detention. Members of the Committee also wished to know whether the Government intended to make a declaration under articles 21 and 22 of the Convention.

319. Concerning article 2 of the Convention, members of the Committee requested further information on the application of provisions of the Judicial Code by which the Administrative Division was empowered to nullify administrative decisions which violated justiciable human rights. They also wished to know whether special courts existed for members of the armed or security forces and whether the jurisdiction of ordinary courts could be suspended, notably in a state of emergency. Clarification was also requested as to the compatibility of Panamanian legislation with provisions of article 2, paragraph 3, of the Convention, according to which an order from a superior officer or a public authority could not be invoked as a justification of torture.

320. In respect of article 3 of the Convention, additional information was sought on the measures taken by the State party to ensure that persons were not extradited to a State where the risk of being subjected to torture existed.

321. Regarding article 4 of the Convention, members of the Committee wished to receive further information on the penalization of acts of torture.

322. Additional information was requested on the implementation of articles 5, 7 and 9 of the Convention, particularly with regard to the full application of the principles of universal jurisdiction and mutual legal assistance.

323. With regard to article 10 of the Convention, further information was sought specifically on the training given to medical personnel for the prohibition of torture and the identification and treatment of torture victims.

324. In connection with article 11 of the Convention, members of the Committee wished to receive further information on the implementation of the article, particularly regarding the length of pre-trial detention, the rules and regulations governing preventive detention and the right of an individual to legal assistance from the moment of his arrest.

325. Regarding article 13 of the Convention, clarification was sought as to the authority competent to conduct inquiries into complaints against the police.

326. With regard to article 14 of the Convention, clarification was requested as to the rights of victims to bring a criminal action against a person alleged to have committed a violation of human rights and the rights of victims to rehabilitation and compensation. In particular, members of the Committee asked whether medical centres for the rehabilitation of torture victims existed in Panama and whether or not the State assumed responsibility for compensating a victim of torture whenever a police officer had committed such an act.

327. Concerning article 16 of the Convention, members of the Committee requested further information on the treatment and institutionalization of mentally ill persons, particularly whether specialized psychiatric hospitals existed and whether political prisoners had ever been detained there.

328. Replying to questions raised by members of the Committee, the representative of the reporting State said that the Convention against Torture had been fully integrated into Panamanian legislation and that the Constitution of Panama contained a full definition of torture. Derogations from the Convention were not admissible unless the Convention itself was denounced. The Supreme Court of Justice was concerned with ensuring respect for the Constitution and adherence to the provisions of the Convention. The function of the Attorney General's office was to defend the interests of the State, to ensure compliance with legislation and to monitor the conduct of public officials. The Attorney General was authorized to initiate any proceedings against any official. Panama had a professional civil police force which was subordinate to the Public Prosecutor's Department. It also had a national police force which was subordinate to the Ministry of Justice, which was itself responsible to the President. With regard to the issue of decriminalization and recourse to forms of punishment other than imprisonment, the representative informed the Committee that such measures were favoured when dealing with first offenders charged with crimes customarily punishable by less than three years' imprisonment. The results of those measures had been positive and a failure rate of only 1 per cent had been noted. The representative also indicated that until 21 December 1992 there had been no cases of political prisoners, but that four such cases had recently come before the courts, for which information would be provided in the next report. In addition, he indicated that there were 3,400 persons currently in prison for various types of offences. Non-governmental organizations were allowed access to prisons and other detention establishments and they could make recommendations concerning conditions of detention. Under article 22 of the Constitution any such recommendations must be transmitted to the relevant authorities.

329. Concerning the various questions raised with regard to article 2 of the Convention, the representative informed the Committee that although the possibility existed for administrative decisions to be overturned should they violate human rights, no such cases had been recorded. He also stated that no exceptional circumstances whatsoever, whether a state of war or internal conflict, could be invoked in Panama for justification of torture. In addition, he explained that article 34 of the Constitution did not exempt a person from liability for a manifest violation of a constitutional or legal provision to the detriment of another person on the grounds that he acted under orders from a

superior. However, in the case of police officers on duty and members of the armed forces, responsibility fell solely on the superior who had given the order. Furthermore, disciplinary measures could be imposed by a supervisory body of the police force upon police officers who had violated another's human rights.

330. With regard to article 3 of the Convention, the representative explained that in relation to extradition matters Panama adhered to the norms established by the Bustamanti Code and the Caracas Convention and that the extradition of a person would not be permissible if there were evidence that it might lead to his being tortured, executed or persecuted.

331. Concerning article 4 of the Convention, the representative informed the Committee that specific provisions of the Penal Code were devoted to matters relating to torture and other human rights violations.

332. In respect of article 9 of the Convention, the representative indicated that mutual legal cooperation existed between Panama and other States regardless of whether a formal bilateral agreement was in place.

333. In connection with article 10 of the Convention, the representative explained that compulsory training programmes were organized for doctors, lawyers etc. to ensure that they were fully aware of all aspects of human rights issues.

334. With respect to article 11 of the Convention, the representative indicated the measures his Government had taken to implement the minimum rules for the treatment of prisoners and he pointed out that there had been no cases of torture in prison establishments. With regard to pre-trial detention, he stated that the prison authorities must receive a written detention order and that there were no cases of pre-trial detention having lasted longer than one year. He also indicated that Panamanian law provided that the police were entitled to detain a suspect for 24 hours before the rule of habeas corpus applied. Guarantees were provided to ensure that persons were not subjected to coercion when making statements and persons accused of having committed an offence were entitled to make their statements in the presence of a lawyer. Furthermore, all interviews were recorded and the accused had the right to appeal if he felt that constitutional guarantees had been violated.

335. Regarding article 13 of the Convention, the representative indicated that persons who considered themselves victims of torture were entitled to apply for administrative redress and to initiate proceedings in the courts.

336. Concerning article 14 of the Convention, the representative explained that Panamanian legislation provided for compensation in the event of civil liability for wrongful arrest and that if the plaintiff were unable financially to sustain his own case, the State was under the obligation to provide funds for that purpose. Moreover, technical and medical services were provided under the social security system and included therapy for persons suffering from a mental disorder.

337. With respect to article 16 of the Convention, the representative informed the Committee that cases involving mentally ill persons were assessed by the Institute of Forensic Medicine and that criminal proceedings would be suspended until the person was considered fit for trial. Psychiatric institutions did exist in Panama exclusively in the interests of treating persons with mental illness and there were no cases in Panama of persons being or having been held in psychiatric institutions on the grounds of their political opinion.

Conclusions and recommendations

338. The Committee recalled that when it had examined the initial report of Panama on 23 April 1991 it had concluded that the Government of Panama in its next report should, inter alia, take into account the various questions raised and remarks made by the members of the Committee and provide a full description of the legislative measures taken to implement each article of the Convention in practice. The Committee was of the view that the first supplementary report fulfilled all those expectations.

339. It concluded that the legal system in Panama was generally in accordance with the principles contained in the Convention, although it appeared that article 34 of the Panamanian Constitution, which related to police officers and provided for the defence of superior orders in the perpetration of an act of torture, did not comply with article 2, paragraph 3, of the Convention.

340. The Committee also concluded that the legal system as described during the consideration of the report appeared to be geared towards the highest possible protection of human rights. The Committee also took note with satisfaction of the penal system in place in Panama and of its principle of "non-imprisonment".

341. In addition, the Committee expressed its satisfaction with the timing and content of the report considered and expressed the hope that the Government of Panama would soon make a declaration to accept the provisions of article 22 of the Convention.

Hungary

342. The second periodic report of Hungary (CAT/C/17/Add.8) was considered by the Committee at its 141st, 142nd and 145th meetings, on 21 and 23 April 1993 (see CAT/C/SR.141, 142 and 145).

343. The report was introduced by the representative of the State party, who declared that during the reporting period Hungary had undergone a profound and fundamental change. The communist one-party system with its socio-political order had been replaced by a pluralist society, a functioning democracy and the rule of law. Respect for human rights and fundamental freedoms had been a major driving force of that transition. The change of regime and modifications to the national legislation, especially to the constitution and penal laws that accompanied it, had brought the Hungarian system of law virtually into line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Particular importance was attached to the establishment of the Constitutional Court which had ruled, inter alia, in its decision No. 23/1990, that capital punishment was contrary to the constitutional provisions prohibiting limitations on the very substance of the right to life and human dignity (articles 8.2 and 54.1 of the Constitution).

344. During the period under review Hungary had withdrawn its reservations concerning articles 20 and 30, paragraph 1, of the Convention and it had recognized by declaration the competence of the Committee under articles 21 and 22 of the Convention. In addition. Hungary was in favour of the elaboration of the optional protocol to the Convention against Torture by a working group of the Commission on Human Rights.

345. The members of the Committee thanked the Government of Hungary for its timely report, which provided clear and complete answers to the many questions put by the Committee during the consideration of the initial report. They noted that the crime of torture could be punished in accordance with articles 226 to 228 of the Criminal Code, although they found the maximum penalties laid down

by those articles extremely light, and asked for further details. Some members of the Committee took note of decision No. 23/1990 of the Constitutional Court whereby capital punishment was declared unconstitutional, and asked what Hungarian public opinion thought of the matter. They also asked whether Law-Decree No. 3 of 1988, whereby the Convention against Torture had been incorporated into domestic law, had already been invoked in decisions by the courts, whether any appeals had been lodged with the Procurator, and if so what conclusions had been reached.

346. Some members of the Committee also inquired whether there had been any cases of torture during the period under review, how many complaints had been filed, whether there were any statistics on the subject, whether the bills on the press and minorities had been considered and adopted by Parliament, whether political pluralism extended to civil society and community life as a whole and whether there was a bar council in Hungary, as well as a medical council and independent institutions for the protection and promotion of human rights in particular. They expressed the hope that the ratification, announced by Hungary, of the European Convention for the Protection of Human Rights and Fundamental Freedoms would rapidly become effective.

347. With regard to the implementation of article 2 of the Convention, some members of the Committee asked for clarification of the amendments made to judicial supervision, and of the punishment to which an official would be liable if he employed coercion against a suspect during interrogation.

348. Turning to article 3 of the Convention, some members of the Committee requested further information on the application of the existing extradition procedure in Hungary.

349. Concerning article 4 of the Convention, some members of the Committee pointed out that, according to the information provided by the Government of Hungary, the provisions of the article had not been fully incorporated into Hungarian criminal law and that article 226 of the Criminal Code appeared to provide an extremely restrictive definition of what constituted an act of torture. In that respect, they asked whether all forms of torture, as defined by the Convention, constituted an offence under the Criminal Code.

350. As for articles 7 to 12 of the Convention, some members of the Committee asked for further information on legal practice in respect of each of the articles.

351. In connection with article 10 of the Convention, some members of the Committee asked to be provided with copies of the course manuals issued to officials in connection with combating torture, and to be given a description of the courses themselves. They also emphasized that adequate training in that sphere should be provided to persons responsible for receiving refugees.

352. On article 13 of the Convention, some members of the Committee referred to the report by Amnesty International concerning alleged ill-treatment of certain foreigners in Hungary and asked for information on existing machinery to investigate any complaints; more precisely, they referred to two allegations of torture in the report by Amnesty International and asked whether an investigation had been carried out, if it had been completed and, if so, what conclusions it had reached.

353. The representative of the reporting State, replying to the questions and comments, stated that pluralization was not confined to the political sphere but was also extended to civil society, which had various means at its disposal for exercising control over respect for human rights. As far as national or ethnic

minorities were concerned, all of them had their respective associations. The gypsies - the largest minority in Hungary - had formed about 150 associations on various levels, which were very active in human rights-related activities. There was also a parliament of gypsies which defended the rights of that minority at the national level. As to professional groups, the influential Hungarian Lawyers Association constituted a guarantee of respect for human rights, including protection against torture. A bill on the rights of national and ethnic minorities was before the Parliament. The bill had been discussed in the Council of Europe at Strasbourg and had been found to represent a good approach to the issue; it covered all aspects and needs of minorities, both national and ethnic. A bill concerning the regulation of the media was being debated in Parliament and it was hoped that it would shortly be enacted.

354. The representative further stated that a bill providing for Hungary's accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights was currently before the Parliament. Public opinion polls had revealed a slight majority in favour of abolition of the death penalty. Progressive abolition of harsh penalties was a tradition of Hungarian legal doctrine, and it should not be difficult to follow up the Constitutional Court's opinion that the death penalty should be abolished not only for political offences but also for other offences to which it had hitherto been applicable. The representative explained that anyone could refer to the Convention in court and judges could refer to it directly, but this had not been done so far because the domestic law had proved to be adequate in this respect. Statistics concerning cases of torture up to 1990 were available in the report; the later statistics were only of a general character. The representative also provided the Committee with a detailed description of the office of the ombudsman for the protection of civil and political rights and of the ombudsman for the protection of the rights of national and ethnic minorities in his country.

355. With regard to article 3 of the Convention, the representative said that if no agreement existed with a country whose nationals should be prosecuted for torture, Hungary would have recourse to the relevant provisions of the Convention itself, and would extradite an alleged torturer even in the absence of an extradition agreement.

356. With respect to article 4 of the Convention, the representative stated that the punishment of acts related to torture could only be carried out according to the Penal Code. Torture, as defined in the Convention, constituted in Hungarian law an aggravating circumstance affecting certain acts which involved deprivation of personal freedom. Article 228 of the Criminal Code sanctioned punishments for such acts, and the penalties had been increased under Act 17 of 1993, which also obliged judges to deal very severely with such offences, taking into account article 4 of the Convention.

357. As to whether Hungarian practice conformed to articles 6 and 7 of the convention, the representative indicated that a national of another State suspected of having committed an offence specified in the Convention was subject to the same treatment and procedures as a Hungarian national. Under the Convention, problems relating to extradition must be settled according to the principles of universal jurisdiction. He also pointed out that Act XXXII issued in 1993 provided that every detainee must be informed in his mother tongue of his rights as they related to all phases and aspects of his detention.

358. In connection with article 10 of the Convention, the representative informed the Committee that necessary information on human rights, including that concerning the Convention against Torture, could be obtained by citizens from the official gazette, the press and professional publications. In that connection, he referred to the Acta Humana series published by the Hungarian

Centre for Human Rights, issue No. 4 of which contained a study analysing the Convention against Torture. He also described how such information was provided to students, law enforcement personnel, public officials and medical personnel. Provision of Convention-related information also formed part of postgraduate training for teachers who were provided with manuals by the Centre for Human Rights of the United Nations Secretariat.

359. With reference to article 11 of the Convention, the representative said that Act XXXII of 1993 represented an overall measure for improving all relevant provisions of the law dealing with interrogation rules, instructions, and arrangements for any form of arrest, detention or imprisonment.

360. With respect to article 13 of the Convention, the representative stated that the judiciary were competent to take decisions on all matters relating to detention, but Act XXXII of 1993 clearly established that any such decisions were open to appeal. As far as the allegations by Amnesty International were concerned, he said that they involved a one-sided statement made by alleged victims. Under Hungarian law, each victim had the right to turn to a competent local prosecutor to request proceedings against the enforcement authorities. The information available to the Government indicated that no such report had so far reached any prosecutor; that did not mean that such a report would not be made later as the alleged events were of very recent date. It would seem premature, however, to deal with those allegations as the full facts of the case were not yet available.

361. With regard to article 15 of the Convention, the representative indicated that cases involving evidence found to have been obtained by infringement of the law were always deemed invalid and were at the same time punishable under the Criminal Code, article 227 of which established prison sentences of up to five years for persons found guilty of obtaining evidence under duress.

Conclusions and recommendations

362. The Committee noted with satisfaction the progress made in Hungary towards democracy and the implementation of the Convention against Torture both in the legislative sphere and in legal practice.

363. The Committee expressed the hope that specific provisions of the Hungarian Criminal Code and new administrative measures would make it possible still more effectively to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment.

364. The Committee also suggested to the Hungarian authorities that they should develop still further training programmes for the various professions concerned with the application of the Convention.

Sweden

365. The Committee considered, the second periodic report of Sweden (CAT/C/17/Add.9) at its 143rd and 144th meetings, on 22 April 1993 (see CAT/C/SR.143 and 144).

366. The report was introduced by the representative of the State party, who informed the Committee of developments that had taken place in Sweden since the submission of its last report and made reference to new legislative measures. First, a new Aliens Act had come into force on 1 July 1989. Although it had left unchanged the fundamental principles of Swedish refugee and immigrant policy, a new provision had been added prohibiting the sending of an alien to a country where he ran the risk of being subjected to torture. Secondly, the

Penal Code had been modified with regard to the offence of misuse of authority, so that, effective from 1 October 1989, such an offence no longer had to cause damage in order to be punishable. Thirdly, the major change to two new Acts, the Act concerning Psychiatric Compulsory Care and the Act concerning Forensic Psychiatric Care, both of which had entered into force on 1 January 1993, was to set a time-limit for compulsory care which was subject to judicial control.

367. The representative also made reference to remarks contained in the report prepared by the European Committee for the Prevention of Torture following its visit to Sweden from 5 to 14 May 1991. Those remarks indicated that no allegations of torture or other evidence of torture had been found in Sweden and that, at present, persons deprived of their liberty in Sweden ran little risk of being physically ill-treated.

368. The representative also informed the Committee that a governmental investigation into psychiatric care had recently submitted its proposals for strengthening the Government's support for the rehabilitation of torture victims. The report had recommended the establishment of a special institute against torture and organized violence. In addition, he described new provisions further limiting the possibility of detention of a child under 16 which had come into force under the Aliens Act from 1 January 1993.

369. The members of the Committee expressed appreciation to the representative of the reporting State for the brief but comprehensive information contained in the report and his introduction. They welcomed especially the decision of Sweden to make public the report prepared by the European Committee for the Prevention of Torture following its visit to Sweden and the information contained therein which attested to Sweden's full compliance with the provisions of the Convention against Torture. Nevertheless, members of the Committee sought various clarifications as to the implementation of the Convention in Sweden.

370. On issues of a general nature, clarification was requested as to the jurisdiction of the Appeals Court and Supreme Court in the event of an offence having been committed by a judge or another official responsible for the administration of justice.

371. With regard to article 1 of the Convention, it was asked whether Sweden would not reconsider the possibility of introducing into its Penal Code a specific definition of torture as such a step would assist in clarifying the practice and punishment of torture and in the collection of reliable statistical data on the practice of torture.

372. Concerning article 3 of the Convention, clarification was sought as to its implementation with regard to the methods employed by the State party to evaluate the risk of torture in other countries to which a person might be extradited.

373. In connection with article 4 of the Convention, clarification was requested as to the penalties prescribed for acts of torture.

374. Concerning article 11 of the Convention, additional information was sought on the rules governing detention.

375. With regard to articles 12 and 13 of the Convention, clarification was sought on information contained in paragraphs 14 and 87 of the report regarding the procedures available to individuals to initiate private prosecutions and complaints against public officials and the mechanisms available for investigating into complaints against police officers.

376. In respect of article 16 of the Convention, further details were sought of the results of the Government's investigation into psychiatric care.

377. Replying to the various questions raised, the representative of the State party informed the Committee of the relevant provisions of the Code of Judicial Procedure, under which the Court of Appeal had jurisdiction in cases concerning offences by judges of lower courts, while the Supreme Court had jurisdiction to handle offences by judges of the Court of Appeal and the Supreme Court as well as the Chancellor of Justice or the Chief State Prosecutor.

378. With regard to article 1 of the Convention, the representative informed the Committee of the provisions of Swedish domestic law prohibiting torture and protecting against torture, cruel and other inhuman practices, including the prohibition of the use of corporal punishment against children. In addition, he explained that, in Sweden, no statistics were collated in relation to complaints or sentences against police officers or wardens accused of ill-treating persons deprived of their liberty, although information on such cases could be gleaned from opinions expressed by the Personnel Responsibility Committee of the National Police Board to the courts. Reference was made to such information.

379. In connection with article 3 of the Convention, the representative provided information on the means by which officials making decisions on asylum cases evaluated the risk of torture in other countries to which an alien might be sent, and indicated that officials of the Swedish Immigration Board and the Aliens Board, the decision-making bodies on asylum cases, had a good knowledge of the human rights situation in various countries. They received such information from reports from Sweden's foreign missions, national and international voluntary organizations and international bodies. In addition, the competent officials were trained on a continuing basis and travelled frequently in order to form their own opinions regarding local circumstances.

380. Concerning article 4 of the Convention, the representative clarified that the maximum penalty of six years' imprisonment for gross misuse of office was not the maximum penalty for torture. Acts of torture were more likely to be deemed to be aggravated assault, which carried a maximum penalty of 10 years' imprisonment. Moreover, if an act of torture led to the victim's death, it might be considered as murder, which carried the maximum penalty of life imprisonment.

381. In connection with article 11 of the Convention, the representative provided further information on the rules and regulations governing the detention of aliens. In particular, he made reference to the provisions of the Aliens Act by which an alien aged 16 or over might be detained and the grounds for such detention. He indicated that an alien might not be detained for more than 48 hours for purposes of investigation and that only in exceptional circumstances could an alien be detained for more than two weeks. Moreover, if a refusal of entry or expulsion order had been made, an alien might be detained for up to two months, unless there were exceptional grounds for a longer period. In addition, he provided statistical data on the number of alien adults and children detained in 1992 and the length of their period of detention.

382. With regard to articles 12 and 13 of the Convention, the representative informed the Committee of the procedures available to persons who considered themselves victims of illegal acts to institute private prosecutions. He explained that although the Code of Judicial Procedure contained provisions for the initiation of private prosecutions, in most cases of serious assault the alleged victim was not entitled to initiate a prosecution on his own unless the prosecutor had decided not to prosecute. Regarding procedures available to deal with complaints against police officers, the representative indicated that

special disciplinary boards existed for dealing with complaints against police officers as well as prosecutors and judges and that individuals could in certain cases address their complaint directly to those bodies. He also made mention of the precautionary measures adopted in the investigation of offences against a police officer, namely, that the public prosecutor would not choose close colleagues of the police officer charged to investigate into the matter.

383. In connection with article 16 of the Convention, the representative presented further information on the outcome of a government investigation of psychiatric care. He indicated that the report of the investigation contained proposals to establish a Swedish institute against torture and organized violence, which would be financed by the allotment to it of 1 per cent of Swedish development aid to countries where torture occurred. In addition, the report had described different methods of torture and different methods of treatment and that, once the competent authorities, had studied the report, it was expected that a government bill would be presented.

Conclusions and recommendations

384. The Committee expressed its satisfaction that there were no allegations that persons deprived of their liberty had been subjected to ill-treatment amounting to torture nor was there any other evidence that torture had been found in Sweden.

385. Thus, in all respects Sweden met the standards of the Convention.

386. The Committee was pleased to conclude that the legal and administrative regimes described during the consideration of the report of Sweden were models to which most other countries should aspire.

China

387. The Committee considered the additional report of China (CAT/C/7/Add.14) at its 143rd and 146th meetings, on 22 and 23 April 1993 (see CAT/C/SR.143/Add.2, 144/Add.2, 145/Add.2 and 146/Add.2 and 4).

388. The report was introduced by the representative of the State party, who stated that China paid great attention, both in its legislative texts and in its judicial practice, to the protection of the rights and freedoms of citizens and their democratic rights. The Penal Code explicitly prohibited torture, thus upholding the rights of the person and the inviolability of the dignity of the human person. The Criminal Procedure Law set out in detail the procedure for investigating and punishing offences, including that of torture. Other texts played an important role in preventing and combating torture, in particular by enabling any victims to be compensated. Draft laws on prisons, judges and procurators were under consideration. In addition a national legal training and awareness programme would be renewed for a further five years. The situation in China and the efforts made by the Government must, however, be seen in their historical context: the majority of the legislative efforts aimed at introducing the primacy of law had in fact been undertaken only since 1979. Moreover, since China currently had 1.16 billion inhabitants, the implementation of such legal provisions gave rise to unquestionable difficulties.

389. The competence of procurators extended to offences allegedly committed by State bodies, including law enforcement agencies. With regard to the prohibition of torture, the procurator was empowered to approve, disapprove or revise an order for arrest; he investigated cases, instituted proceedings and visited places of detention. Any allegations of torture or human rights violations were thus referred to him. The number of cases of torture brought

before procurators had fallen from 472 in 1990 to 407 in 1991, a reduction of 13.5 per cent, and then to 339 in 1992, a drop of 16.7 per cent.

390. With regard to certain questions raised during the consideration of the initial report of China, the representative of the State party explained the place of Tibet in the constitutional structure of China. He recalled that Tibet was an integral part of Chinese territory and that the political and judicial system of the People's Republic applied equally to Tibet. Its population enjoyed the same political rights as other Chinese populations.

391. The members of the Committee welcomed the additional report of China, which endeavoured to provide the clarifications requested by the Committee following its consideration of the initial report and said that the presence of a high-level delegation was proof of the desire of the Government of China to cooperate with the Committee.

392. With regard to the constitutional and legal framework for the implementation of the Convention, the members of the Committee asked how the monitoring of the People's Supreme Court by the Standing Committee of the People's National Congress could be reconciled with the principle of the independence of the judiciary; how the judges and procurators of the People's Supreme Court were appointed and dismissed; whether the Chinese Communist Party was subject to non-interference in cases heard by the people's courts; whether the training given to judicial personnel and doctors related to the Convention; and, in general, what measures had been taken to prevent acts of torture from being committed.

393. The members of the Committee, referring to the assurances given by the Chinese delegation during the consideration of the initial report, asked what the outcome of inquiries conducted into alleged cases of torture in Tibet had been. They also referred to the report of the Special Rapporteur of the Commission on Human Rights to examine questions relevant to torture (E/CN.4/1993/26) generally deploring the use of torture and other cruel, inhuman or degrading treatment or punishment in China. They drew attention to information received from many non-governmental sources alleging repeated violations of human rights in Tibet, the systematic use of force against peaceful demonstrations in Tibet and acts of religious and racial discrimination against the population in general, and asked what the position of the authorities was in that regard.

394. On the subject of article 1 of the Convention as read in conjunction with article 4, the members of the Committee requested clarifications about the incorporation of the definition of torture into Chinese domestic legislation.

395. The members of the Committee asked how article 2, paragraph 3, of the Convention, according to which an order from a superior officer or a public authority may not be invoked as a justification of torture, was applied. In particular, they asked whether the rule stemmed from an administrative decision, whether it covered all forms of torture and whether it also applied to military personnel.

396. With reference to article 3 of the Convention, the members of the Committee wished to know whether an arrested person could be extradited to a country where he would be in danger of the death penalty and, if not, whether there were provisions in Chinese legislation which enabled the person concerned to be brought before the competent national courts.

397. Clarifications were also sought on the legislative measures adopted in order to safeguard the universal jurisdiction provided for in articles 5 to 7 of the Convention.

398. Further information was requested about the implementation of articles 8 and 9 of the Convention, particularly with regard to the mutual judicial assistance procedure followed in practice.

399. The members of the Committee asked what measures were taken to give practical effect to the provisions of article 10 of the Convention.

400. With regard to article 11 of the Convention, the members of the Committee requested information on rules relating to the interrogation of suspects and the prohibition of corporal punishment with a view to extorting confessions, since allegations by non-governmental organizations referred to many cases of persons detained in secret, and on opportunities for persons arrested to contact a family member, consult a qualified doctor and choose a lawyer as soon as they were arrested. They also asked how many persons were detained in the country's prisons or held in administrative detention and whether measures were envisaged to place a time-limit on the length of pre-trial detention. They requested further information on the definition of the crime of counter-revolution and on the situation of the 4,329 persons held in Chinese prisons for such crimes; they asked whether re-education through labour could be used as part of administrative penalties, how many persons were affected by such penalties and how many had died in prison or in re-education-through-labour camps.

401. The members requested clarifications about the conditions in which a person could be subjected to a form of administrative detention known as "protective custody during investigation"; the number of persons involved and the procedural safeguards available to them, in particular any opportunity for remedies in cases of torture; and allegations that persons thus placed in "protective custody during investigation" were deprived of certain rights, particularly that of communicating with members of their family or their defence counsel, and were frequently detained for longer than the regulation three months and subjected to torture. They also asked whether steps had been taken by the competent authorities as a result of allegations of torture and suspicious death among persons detained in such special centres.

402. As to articles 12 and 13 of the Convention, the members of the Committee said that they would like further information on complaints filed against public officials, on the outcome of the inquiries conducted and on the number and nature of sentences handed down against persons found guilty of violating citizens' human and democratic rights and of acts of torture in particular.

403. On the subject of article 14 of the Convention, the members of the Committee also requested clarifications of the conditions in which a victim of an act of torture, or claimants on his behalf, could obtain compensation, particularly when the guilty person was an agent of the State.

404. With reference to article 15 of the Convention, the members of the Committee asked whether a statement obtained by torture could be invoked as evidence in a trial, whether such cases had occurred in practice and what use the courts made of such evidence.

405. On article 16 of the Convention, the members referred to information from non-governmental sources according to which sentences to the death penalty had increased sharply during recent years, having reached 1,891 in 1992, involving 1,079 executions. They requested clarifications in that regard and asked whether the death sentence might not constitute a form of cruel and inhuman

treatment in some cases, particularly when the enforcement of such a sentence remained pending for a long period. It was also asked whether the bodies of persons executed could be used for the purpose of organ transplants.

406. Lastly, the members of the Committee asked whether the Government of China was planning to recognize the Committee's competence under articles 21 and 22 of the Convention and to withdraw its reservation on article 20 of the Convention.

407. In reply to the questions raised, the representative of the State party said that, in conformity with article 126 of the Constitution, the courts exercised their functions without any interference by administrative organs, social groups or individuals. The Chinese judicial system was based on the responsibility of the courts to the People's Congress, but those courts handed down their decisions in complete freedom. Judges and the Procurator General were elected by the People's National Congress, which could revoke their appointment. The independence of the courts with regard to social groups was guaranteed and the Communist Party did not intervene at all in decisions of the courts.

408. With reference to articles 1 and 4 of the Convention, the representative of the State party said that chapters IV and VII of the Penal Code contained specific provisions guaranteeing the protection of individuals against any violation of their rights. The definition given in article 136 of the Penal Code corresponded to that contained in article 1 of the Convention.

409. Responding to questions raised in connection with article 2, paragraph 3, of the Convention, the representative of the State party explained that superior orders could not be invoked to excuse offences involving torture, and administrative and criminal procedures were available in such cases.

410. With regard to articles 8 and 9 of the Convention, the representative of the State party explained that China was currently drafting legislation on the question of extradition and had signed bilateral agreements with a number of countries on reciprocal arrangements in commercial and judicial matters, including extradition. Any extradition order had to comply with the basic principles of international law, including the provisions of the Convention, and if not extradited, a citizen of another State would be tried under provision of China's Penal Code.

411. Referring to article 10 of the Convention, the representative of the State party stressed that the Government of China attached great importance to the training of judicial personnel with regard not only to domestic legislation, but also to the international conventions to which China was a party, in particular the Convention against Torture. No special legal training was given to medical staff or armed forces personnel, who nevertheless benefited from the measures taken as part of the national legal training and awareness campaign.

412. With regard to article 11 of the Convention, the representative of the State party said that, in 1993, there were 684 reform-through-labour centres, 155 prisons, 492 rehabilitation centres and 37 social reintegration centres for juvenile offenders. The total prison population was some 1,209,945, i.e., about 1 prisoner per 1,000 inhabitants. Solitary confinement applied only to certain prisoners who had committed serious violations of prison regulations and must not exceed 15 days. Prisoners subjected to such a regime were entitled to the same standards of hygiene and living as other inmates and were given support in order to help them reform.

413. Reform through education and labour in China was carried out in accordance with an Act approved by the People's National Congress in 1957. It was intended

to reduce crime and to safeguard the public through persuasion and education. It did not entail punishment, but was intended to restrain potential juvenile offenders, particularly in urban areas. Persons detained in reform-through-labour camps were entitled to free medical attention. The standard of medical attention provided in such establishments was higher than the national average. The death rate in those camps was extremely low, moreover, and the staff were expressly prohibited from subjecting inmates to humiliation, ill-treatment or torture. In 1990 and 1991, a total of 21 agents of the State had been punished for such offences; no cases had been reported in 1992.

414. Administrative detention, also known as public security detention, was imposed by public security organs for minor offences. Offenders could be held for a period of up to 15 days and public security officials were strictly forbidden to beat, curse, humiliate or otherwise intimidate detainees.

415. There were no specific provisions covering counter-revolutionary and political offences and the concept of political crime did not exist in China. The crimes of counter-revolution referred to in the Penal Code were a category of criminal offences including all activities carried out with the specific intention of subverting State power or overthrowing the Government. The judicial bodies which tried such cases showed particular circumspection and the courts strictly abided by the principles and procedures laid down in the Code of Criminal Procedure. Persons found guilty of counter-revolutionary crimes had been sentenced in strict conformity with articles 91 and 102 of the Penal Code, according to the gravity of the offences committed.

416. Replying to further questions, the representative said that detention during investigation could not last more than two months and correspondence to the period during which proceedings might or might not be instituted. Under Chinese law, families of defendants were normally notified of the fact and place of detention, unless accessories to the alleged offence were still at large. Persons who were arrested had to be informed of the nature of the charges at the time of arrest.

417. In reply to questions on articles 12 and 13 of the Convention, the representative of the State party provided detailed information on the number of complaints of torture filed from 1990 to 1992. Any persons found guilty of extorting a confession by torture or having subjected a prisoner to corporal punishment, ill-treatment, harassment or humiliation were liable to prison sentences varying according to the gravity of the offence and the extent of the ill-treatment and even to the death sentence in the most serious cases. Furthermore, if a case of torture was discovered, the Ministry responsible for supervising the civil authorities would take action, if necessary by initiating proceedings, even in the absence of a complaint.

418. Referring to article 14 of the Convention, the representative of the State party said that, if a death occurred following an act of torture, the perpetrator was brought before the people's court. The perpetrator of such acts was required to compensate the victim or his surviving relatives; if he was not solvent, the production unit to which he belonged addressed a request to the finance department, which then compensated the victim. The Civil Code also included provisions for awarding compensation for mental suffering.

419. In reply to questions on article 15 of the Convention, the representative of the State party said that, in 1958, the Minister for Justice had prepared a 10-point list of principles to be observed, one of which prohibited obtaining confessions by torture. In 1983, a code of conduct for the legal and legislative professions had been published, reproducing and elaborating on the same principle. When China became a party to the Convention in 1988, the

Minister for Public Security had issued a circular stating that the people's police were required to study and apply the Convention. Lastly, the Penal Code very clearly stipulated that judicial bodies charged with investigating criminal cases could not base their rulings on evidence obtained by torture or illegal means and that, in the absence of other evidence, no penalty could be handed down.

420. With reference to article 16 of the Convention, the representative of the State party explained that capital punishment was reserved for persons who had committed only the most heinous crimes and its application was subject to extremely strict conditions. During the two-year stay of execution, the convicted person was subjected to reform through labour and his conduct was monitored for signs of successful rehabilitation. The death penalty was therefore carried out only in exceptional cases in which offenders resolutely refused to reform or committed further crimes while in prison. Removal of organs without the permission of either the person or his family was not standard practice. There were, however, cases in which permission had been given to remove organs from the bodies of persons executed.

421. Responding to other questions, the representative of the State party said that reconsideration of the reservation made by China to article 30 of the Convention was under way. Furthermore, the Committee's views regarding the reservation entered in respect of article 20 would be duly taken into account.

422. Lastly, the representative of the State party drew the Committee's attention to the fact that a great deal of the material referred to by its members had been supplied by non-governmental organizations, some of which were particularly biased against China. The credibility of such material was therefore questionable. The report of the Special Rapporteur on questions of torture had used the same sources of information and had to be treated with equal caution. China was making valiant efforts to improve its legal system and promote democracy. Any violations of the Convention were merely isolated cases and were not representative of the policy of the Government of China.

Conclusions and recommendations

423. The Committee expressed its gratitude for the detailed report submitted by the Government of China, which was in conformity with the Committee's guidelines, as well as for the explanations provided by the delegation.

424. The Committee took note with satisfaction of the many legislative, judicial and administrative measures which had been adopted by the Government in order to comply with the various provisions of the Convention. The Committee welcomed, in particular, the reforms relating to the Penal Code and the efforts made to raise public awareness through the printing of textbooks used in information, education, training, promotion and protection programmes in the area of human rights.

425. Although the Committee was aware of the obvious difficulties facing China, it expressed concern at the use of administrative detention and the cases of torture alleged and deplored by various non-governmental organizations, in particular in Tibet. It recommended that energetic measures be taken by the authorities to prevent such cases and to punish those responsible and requested precise statistical data concerning the number of persons in administrative detention, sentenced to capital punishment and executed.

426. The Committee also called upon the Government to consider making declarations with regard to articles 21 and 22 of the Convention and withdrawing the reservation entered in respect of article 20 of the Convention.

427. The Committee recommended that arrested or detained persons should have more extensive guarantees immediately following their arrest and that their family, lawyer or doctor should have prompt and regular access to them. In order to guarantee the protection of detainees during interrogation, separation between the authorities responsible for detention, on the one hand, and investigation, on the other, should be provided for. The conduct of interrogations should be monitored in the framework of administrative and other forms of detention. In that regard, legislation could be considered that would enable detainees to lodge complaints and allow plaintiffs and witnesses to be protected against any ensuing ill-treatment or intimidation.

428. The Committee also recommended that criminal proceedings be systematically initiated against persons accused of acts of torture. Those procedures should be conducted independently of any disciplinary measures taken by the security forces. Procedures should be introduced to guarantee the medical examination of persons detained or arrested, to be carried out by qualified and independent medical doctors, immediately following arrest and at regular intervals thereafter, in particular before release. Training for law enforcement personnel, members of the armed forces and medical doctors should be accentuated and extended and should concern, in particular, limitations on the use of instruments, equipment and weapons by the security forces.

429. Finally, the Committee expressed the hope that, despite the difficulties and obstacles which might be encountered by the Government of China, the political will and the various legislative measures taken or envisaged would lead to significant progress in promoting in-depth research into the circumstances in which torture was practised and into the necessary ways and means of ending or at least reducing the incidence of torture.

Spain

430. The Committee considered the second periodic report of Spain (CATC/C/17/Add.10) at its 145th and 146th meetings, on 23 April 1993 (see CATC/C/SR.145 and 146 and Add.4).

431. The report was supplemented orally by the representative of the State party, who explained that, further to the recent dissolution of Parliament, the Bill concerning a new Penal Code, mentioned in the report, was to be taken up by the new Government, pursuant to article 115 of the Constitution.

432. Members of the Committee regretted that the report generally contained less information on the various articles of the Convention and their actual application than had the initial report.

433. As to the constitutional and legal framework for implementation of the Convention, members of the Committee wanted further information on the status of the Convention in the Spanish legal system; and on the links between the police, the Public Prosecutor's Office and the judiciary, particularly in cases concerning security. They asked whether cases within the scope of the Convention had been submitted to the European Commission on Human Rights; whether it was intended to publish the report of the European Committee for the Prevention of Torture on its visit to Spain in April 1991; and whether Spain considered contributing once again to the United Nations Voluntary Fund for Victims of Torture, as it had from 1987 to 1989.

434. With regard to article 1, read together with article 4 of the Convention, members of the Committee took the view that articles 204 bis and 551 of the Spanish Penal Code were more restricted in scope than was the definition contained in article 1 of the Convention, for it did not include, for example,

torture inflicted for reasons of punishment. They asked whether the Constitutional Court had applied the provisions of the Convention by going beyond mere mention of the Convention in its rulings. Clarifications were also requested in connection with the application of article 582 of the Penal Code.

435. With reference to article 2, paragraph 1, and articles 4 and 11 of the Convention, taken together, members of the Committee referred to certain information from non-governmental sources about cases in which the provisions of the Convention were said to have been violated. Clarification was requested on the subject of allegations of ill-treatment inflicted on persons deprived of liberty, in prisons or police stations, particularly during questioning. Again, clarification was requested about allegations that extremely light sentences, generally suspended, were systematically handed down against public officials who had committed acts of torture. It was also asked how promotion or transfer within the same grade of members of the forces of law and order sentenced for acts of torture could be reconciled with the spirit of the Convention and the relevant decisions of the Supreme Court.

436. Members of the Committee asked for details about the implementation of article 3 of the Convention and the cases mentioned in paragraph 15 of the report, concerning nearly 100 persons of Central African origin said to have been provisionally authorized to stay on Spanish territory pending a final ruling. They also asked how the Spanish authorities made sure that persons who were turned back or expelled were not subjected in their own country to cruel or inhuman treatment.

437. Clarification was also requested on the implementation of articles 5 to 7 of the Convention.

438. Further information was requested on the implementation of articles 8 and 9 of the Convention.

439. With reference to article 10 of the Convention, members of the Committee said they would like further information on the training for law enforcement personnel and medical staff, and on the measures taken to publicize the provisions of the Convention as widely as possible.

440. With regard to article 11 of the Convention, members of the Committee asked for information on the actual implementation of the instruction concerning compulsory medical assistance for detainees, issued by the Ministry of the Interior in June 1981. They also pointed out that the conditions of detention in Spanish prisons could sometimes be likened to cruel or inhuman treatment and mentioned in this connection the sanitary conditions, lack of ventilation and prison overcrowding, the repeated measures of prolonged isolation, holding suspects incommunicado for five days, frequent transfers from one prison to another, which made visits by relatives difficult, and the arbitrary classification of detainees in the "first degree" category when they had not yet been charged. Members also asked what measures had been taken so that, in practice, every detainee had the information note on the rights of detainees mentioned in the report; and how, in fact, interrogation methods and practices were systematically monitored. Details were also requested about the safeguards when suspected members of armed gangs were held incommunicado, partly in connection with the right of access to a lawyer.

441. In connection with articles 12 and 13 of the Convention, members of the Committee asked for statistical data about the number of automatic investigations, investigations conducted further to complaints, judgements and sentences in cases of torture and ill-treatment. They referred to a report by the People's Advocate, annexed to the initial report, in which the delay in

court proceedings was deplored and asked what measures had been taken for the courts to speed up the processing of cases of torture or ill-treatment. They requested details on how the provincial courts worked particularly in the light of a judgement declaring some of the provisions concerning them to be unconstitutional.

442. As to article 14 of the Convention, members of the Committee asked for clarification about the conditions in which a victim of an act of torture could obtain redress, particularly when the guilty person was a public official; and on what basis the subsidiary responsibility of the State or another body under public law could be incurred.

443. Members of the Committee said they would like details about a judgement of the Constitutional Court dated 15 April 1991 which appeared not to have applied the provisions of article 15 of the Convention; and about paragraph 27 of the report, which did not appear to rule out completely statements that were obtained under torture.

444. In his reply, the representative of the State party stated that publication of the report of the European Committee for the Prevention of Torture following its visit to Spain was awaiting a political decision by the Council of Ministers. He added that Spain was continuing to make contributions to the United Nations Voluntary Fund for Victims of Torture and for the year 1992 had effectively doubled its contribution.

445. With reference to the allegations if ill-treatment reported by the non-governmental organizations, the representative of the State party briefly described several cases of alleged ill-treatment by the police in Benidorm, Ibiza and Mallorca. Investigations had immediately been initiated by the Public Prosecutor's Office: in one case, an officer of the local police force was alleged to have used excessive force and, in another case, a sergeant had been charged with an offence punishable by up to two years' imprisonment. In no circumstances was a public official allowed to exceed his sphere of competence and the penalty imposed in such a case was more severe than that laid down for the same acts committed by a private individual.

446. Pardons granted in respect of acts of torture did not imply any complicity by the authorities with regard to the misdemeanours of officials. In one case involving certain members of the Guardia Civil, a pardon had been granted on account of the period of 12 years which had elapsed since the occurrence and pursuant to the policy of social reintegration; nevertheless, the officials concerned had been dismissed from their duties, although not deprived of their freedom. Suspension of sentence in cases where the penalty was less than one year was not automatic and required a decision by a judicial body. In one instance, the judicial body had ordered that a sentence of four months' imprisonment concerning a member of the Guardia Civil had to be carried out.

447. With regard to articles 1 and 4 of the Convention, the representative emphasized that any form of degrading or harsh treatment inflicted as punishment was deemed torture and punished accordingly and that the Committee's concerns regarding articles 204 and 551 of the Penal Code would be duly taken into account in a new Bill shortly to be drafted in Spain.

448. Referring to article 3 of the Convention, the representative emphasized that Spain's geographical location encouraged many illegal immigrants to seek asylum. There had, however, been no cases involving racism or torture against immigrants or foreigners. If the right of asylum was not granted to a person, he was returned to his country of origin.

449. With reference to article 10 of the Convention, the representative explained that prison officials, members of the Guardia Civil and medical doctors were given human rights courses especially concerning the prohibition of torture.

450. Referring to article 11 of the Convention, the representative explained that the maximum permissible period of incommunicado detention was 72 hours for ordinary offences. In the case of an offence attributable to organized crime (drug traffickers and terrorists), a person could be detained for up to five days. In such cases, the detainee's relatives were not contacted, and the right to a lawyer of his choice not exercised until a judge had been informed; a duty lawyer specializing in cases of drug trafficking or terrorism was, however, present from the outset and any doctor chosen by a detainee could produce an entirely independent report. However, irrespective of the nature of the alleged offence, the rights of all arrested persons were fully respected. He further explained that two lawyers were currently on trial in Spain charged with acting as go-betweens for a terrorist organization, and a third was facing trial on charges of receiving ransom money. The dispersal to separate prisons of detained members of armed gangs was a policy which international bodies such as the European Court of Human Rights had recognized as a right that national authorities could exercise if they saw fit. He added that no complaints had reached the European Commission on Human Rights from any member of terrorist or drug groups.

451. A person under arrest was immediately informed of all his rights, including the rights to silence and to the services of a lawyer and a doctor, and no interrogation could take place until the detainee's lawyer was present. He had to certify that he had been informed of his rights when taken to the police station and, later, in the presence of his lawyer. Prisoners were given a full medical examination by doctors on entry and a test for AIDS, if they requested it. In each prison, the medical director had to check the physical and mental health of prisoners in solitary confinement daily and such punishment was suspended in the event of illness.

452. Spain's prison regime was in keeping with the highest international standards. One of its provisions was, for instance, that no penalty could be imposed on a prisoner if any action was pending which involved the prison authorities. The General Secretariat for Prison Affairs acted constantly to eradicate all possibilities of ill-treatment of prisoners and to bring any such cases to light. The Office of the People's Advocate, which had hitherto received only two complaints in that regard, had commented favourably on the speed and efficacy of its work.

453. With regard to articles 12 and 13 of the Convention, the representative stated that article 24 of the Constitution prohibited unjustified delays in bringing to trial officials charged with torture and ill-treatment. Compensation for abnormal delays in the administration of justice was a right established under article 121 of the Constitution and under article 292 of the relevant Organization Act. There had, however, not been a single complaint about delay in the administration of justice relating to allegations of torture.

454. Concerning article 15 of the Convention, the representative explained that courts attached no value to statements obtained under torture and other evidence was required for a conviction.

Conclusions and recommendations

455. The Committee thanked the Government of Spain for its report and the replies offered by its delegation.

456. The Committee reiterated the concerns it had expressed at the end of the consideration of the initial report, particularly regarding the need for all the offences specified in article 1 of the Convention to be punished with equal vigour and the desirability of general application of the procedural standards relating to the holding of persons incommunicado and to the choice of a trustworthy counsel.

457. The Committee also expressed its concern over the increase in the number of complaints of torture and ill-treatment; about delays in the processing of such complaints; and at the apparent impunity of a number of perpetrators of torture.

458. The Committee welcomed the cooperation of the State party and expressed its confidence that measures would be adopted by Spain that would improve compliance with the Convention.

V. ACTIVITIES OF THE COMMITTEE UNDER ARTICLE 20 OF THE CONVENTION

459. In accordance with article 20, paragraph 1, of the Convention, if the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State party, the Committee shall invite that State party to cooperate in the examination of the information and, to that end, to submit observations with regard to the information concerned.

460. In accordance with rule 69 of the Committee's rules of procedure, the Secretary-General shall bring to the attention of the Committee information which is, or appears to be, submitted for the Committee's consideration under article 20, paragraph 1, of the Convention.

461. No information shall be received by the Committee if it concerns a State party which, in accordance with article 28, paragraph 1, of the Convention, declared at the time of ratification of, or accession to, the Convention that it did not recognize the competence of the Committee provided for in article 20, unless that State party has subsequently withdrawn its reservation in accordance with article 28, paragraph 2, of the Convention.

462. The Committee's work under article 20 of the Convention thus commenced at its fourth session and continued at its fifth to tenth sessions. During those sessions the Committee devoted the following number of closed meetings to its activities under that article:

Sessions	Number of closed meetings
Fourth	4
Fifth	4
Sixth	3
Seventh	2
Eighth	3
Ninth	3
Tenth	8

463. In accordance with the provisions of article 20 and rules 72 and 73 of the rules of procedure, all documents and proceedings of the Committee relating to its functions under article 20 of the Convention are confidential and all the meetings concerning its proceedings under that article are closed.

VI. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE CONVENTION

464. Under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee against Torture for consideration. Thirty-one out of 72 States that have acceded to or ratified the Convention have declared that they recognize the competence of the Committee to receive and consider communications under article 22 of the Convention. Those States are: Algeria, Argentina, Australia, Austria, Canada, Croatia, Cyprus, Denmark, Ecuador, Finland, France, Greece, Hungary, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, Russian Federation, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Uruguay and Federal Republic of Yugoslavia (Serbia and Montenegro). No communication may be received by the Committee if it concerns a State party to the Convention that has not recognized the competence of the Committee to do so.

465. Consideration of communications under article 22 of the Convention takes place in closed meetings (art. 22, para. 6). All documents pertaining to the work of the Committee under article 22 (submissions from the parties and other working documents of the Committee) are confidential.

466. In carrying out its work under article 22 of the Convention, the Committee may be assisted by a working group of not more than five of its members, which submits recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications or assists it in any manner which the Committee may decide (rule 106 of the rules of procedure of the Committee).

467. A communication may not be declared admissible unless the State party has received the text of the communication and has been given an opportunity to furnish information or observations concerning the question of admissibility, including information relating to the exhaustion of domestic remedies (rule 108, para. 3). Within six months after the transmittal to the State party of a decision of the Committee declaring a communication admissible, the State party shall submit to the Committee written explanations or statements clarifying the matter under consideration and the remedy, if any, which has been taken by it (rule 110, para. 2).

468. The Committee concludes examination of an admissible communication by formulating its views thereon in the light of all information made available to it by the complainant and the State party. The views of the Committee are communicated to the parties (art. 22, para. 7, of the Convention and rule 111, para. 3) and are made available to the general public. Generally, the text of the Committee's decisions declaring communications inadmissible under article 22 of the Convention are also made public.

469. Pursuant to rule 112 of its rules of procedure, the Committee shall include in its annual report a summary of the communications examined. The Committee may also include in its annual report the text of its views under article 22, paragraph 7, of the Convention and the text of any decision declaring a communication inadmissible.*

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* Decisions taken by the Committee during the reporting period (ninth and tenth sessions) do not concern final views or inadmissibility of a communication; therefore their text is not included in the present annual report.

470. During the time covered by the present report (ninth and tenth sessions) the Committee had four communications before it for consideration (Nos. 6/1990, 7/1990, 8/1991 and 10/1993).

471. In order to expedite the examination of communications, the Committee at its ninth session appointed two of its members as Rapporteurs responsible for communications Nos. 6/1990, 7/1990 and 8/1991.

472. At its ninth and tenth sessions, the Committee continued consideration of communication No. 8/1991, which was declared admissible at the eighth session. Pursuant to rule 110 of the rules of procedure, the Committee requested the State party to provide more information and to appoint a medical specialist to examine an injury, which according to the author has been caused by torture.

473. At its ninth session, the Committee received a request from the author of communication No. 6/1990 (I.U.P. v. Spain, declared inadmissible at the Committee's seventh session) to reopen consideration of the communication, since the application of domestic remedies had been unreasonably prolonged. Having requested and received comments from the State party, the Committee decided at its tenth session to request more information from the alleged victim.

474. Direct contact with the author of communication No. 7/1990 remained difficult, since letters addressed to him were routinely returned by the postal authorities. In February 1993, the Committee was informed that the author had been arrested anew. Upon the request of the Special Rapporteur, the State party provided information about the author's state of health and about his arrest, trial and sentencing. During its tenth session, the Committee decided to request more detailed information from the State party.

475. Communication No. 10/1993 was registered by the Committee during its tenth session. Under rule 108 of the Committee's rules of procedure, the State party was requested to furnish information or observations relevant to the question of admissibility of the communication.

VII. FUTURE MEETINGS OF THE COMMITTEE

476. In accordance with rule 2 of its rules of procedure, the Committee shall normally hold two regular sessions each year. Regular sessions of the Committee shall be convened at dates decided by the Committee in consultation with the Secretary-General, taking into account the calendar of conferences as approved by the General Assembly.

477. As the calendar of meetings held within the framework of the United Nations is submitted by the Secretary-General on a biennial basis for the approval of the Committee on Conferences and the General Assembly, the Committee took decisions on the schedule of its meetings to be held in 1994 and 1995.

478. Accordingly, the Committee at its 144th meeting, on 22 April 1993, decided to hold its regular sessions for the next biennium at the United Nations Office at Geneva on the following dates:

Twelfth session	18 to 29 April 1994
Thirteenth session	7 to 18 November 1994
Fourteenth session	24 April to 5 May 1995
Fifteenth session	13 to 24 November 1995

VIII. ADOPTION OF THE ANNUAL REPORT OF THE COMMITTEE

479. In accordance with article 24 of the Convention, the Committee shall submit an annual report on its activities to the States parties and to the General Assembly.

480. Since the Committee will hold its second regular session of each calendar year in late November, which coincides with the regular sessions of the General Assembly, the Committee decided to adopt its annual report at the end of its spring session for appropriate transmission to the General Assembly during the same calendar year.

481. Accordingly, at its 152nd and 153rd meetings, on 29 and 30 April 1993, the Committee considered the draft report on its activities at the ninth and tenth sessions (CAT/C/X/CRP.1 and Add.1-3, CAT/C/X/CRP.2 and Add.1-16 and CAT/C/VIII/CRP.3-6). The report, as amended in the course of the discussion, was adopted by the Committee unanimously. An account of the activities of the Committee at its eleventh session (8 to 11 November 1993) will be included in the annual report of the Committee for 1994.

Notes

1/ For previous discussion of this question in the Committee, see Official Records of the General Assembly, Forty-sixth Session, Supplement No. 46 (A/46/46), paras. 16-20; ibid., Forty-seventh Session, Supplement No. 44 (A/47/44), paras. 15-23; and CAT/C/SR.80, 105, 114 and 116.

2/ See Official Records of the General Assembly, Forty-fifth Session, Supplement No. 44 (A/45/44), paras. 14-16.

Annex I

LIST OF STATES WHICH HAVE SIGNED, RATIFIED OR ACCEDED TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AS AT 30 APRIL 1993

State	Date of signature	Date of receipt of the instrument of ratification or accession
Afghanistan	4 February 1985	1 April 1987
Algeria a/	26 November 1985	12 September 1989
Argentina a/	4 February 1985	24 September 1986
Australia a/	10 December 1985	8 August 1989
Austria a/	14 March 1985	29 July 1987
Belarus	19 December 1985	13 March 1987
Belgium	4 February 1985	
Belize		17 March 1986 b/
Benin		12 March 1992 b/
Bolivia	4 February 1985	
Brazil	23 September 1985	28 September 1989
Bulgaria	10 June 1986	16 December 1986
Burundi		18 February 1993 b/
Cambodia		15 October 1992 b/
Cameroon		19 December 1986 b/
Canada a/	23 August 1985	24 June 1987
Cape Verde		4 June 1992 b/
Chile	23 September 1987	30 September 1988
China	12 December 1986	4 October 1988
Colombia	10 April 1985	8 December 1987
Costa Rica	4 February 1985	
Croatia a/		8 October 1991 c/
Cuba	27 January 1986	
Cyprus a/	9 October 1985	18 July 1991
Czech Republic		1 January 1993 c/
Denmark a/	4 February 1985	27 May 1987
Dominican Republic	4 February 1985	
Ecuador a/	4 February 1985	30 March 1988
Egypt		25 June 1986 b/
Estonia		21 October 1991 b/

State	Date of signature	Date of receipt of the instrument of ratification or accession
Finland a/	4 February 1985	30 August 1989
France a/	4 February 1985	18 February 1986
Gabon	21 January 1986	
Gambia	23 October 1985	
Germany	13 October 1986	1 October 1990
Greece a/	4 February 1985	6 October 1988
Guatemala		5 January 1990 b/
Guinea	30 May 1986	10 October 1989
Guyana	25 January 1988	19 May 1988
Hungary a/	28 November 1986	15 April 1987
Iceland	4 February 1985	
Indonesia	23 October 1985	
Ireland	28 September 1992	
Israel	22 October 1986	3 October 1991
Italy a/	4 February 1985	12 January 1989
Jordan		13 November 1991 b/
Latvia		14 April 1992 b/
Libyan Arab Jamahiriya		16 May 1989 b/
Liechtenstein a/	27 June 1985	2 November 1990
Luxembourg a/	22 February 1985	29 September 1987
Malta a/		13 September 1990 b/
Mauritius		9 December 1992 b/
Mexico	18 March 1985	23 January 1986
Monaco a/		6 December 1991 b/
Morocco	8 January 1986	
Nepal		14 May 1991 b/
Netherlands a/	4 February 1985	21 December 1988
New Zealand a/	14 January 1986	10 December 1989
Nicaragua	15 April 1985	
Nigeria	28 July 1988	
Norway a/	4 February 1985	9 July 1986
Panama	22 February 1985	24 August 1987
Paraguay	23 October 1989	12 March 1990
Peru	29 May 1985	7 July 1988

State	Date of signature	Date of receipt of the instrument of ratification or accession
Philippines		18 June 1986 b/
Poland	13 January 1986	26 July 1989
Portugal a/	4 February 1985	9 February 1989
Romania		18 December 1990 b/
Russian Federation a/	10 December 1985	3 March 1987
Senegal	4 February 1985	21 August 1986
Seychelles		5 May 1992 b/
Sierra Leone	18 March 1985	
Somalia		24 January 1990 b/
South Africa	29 January 1993	
Spain a/	4 February 1985	21 October 1987
Sudan	4 June 1986	
Sweden a/	4 February 1985	8 January 1986
Switzerland a/	4 February 1985	2 December 1986
Togo a/	25 March 1987	18 November 1987
Tunisia a/	26 August 1987	23 September 1988
Turkey a/	25 January 1988	2 August 1988
Uganda		3 November 1986 b/
Ukraine	27 February 1986	24 February 1987
United Kingdom of Great Britain and Northern Ireland d/	15 March 1985	8 December 1988
United States of America	18 April 1988	
Uruguay a/	4 February 1985	24 October 1986
Venezuela	15 February 1985	29 July 1991
Yemen		5 November 1991 b/
Yugoslavia (Serbia and Montenegro) a/	18 April 1989	10 September 1991

a/ Made the declaration under articles 21 and 22 of the Convention.

b/ Accession.

c/ Succession.

d/ Made the declaration under article 21 of the Convention.

Annex II

MEMBERSHIP OF THE COMMITTEE AGAINST TORTURE
(1992-1993)

Name of member	Country of nationality	Term expires on 31 December
Mr. Hassib Ben Ammar	Tunisia	1995
Mr. Peter Thomas Burns	Canada	1995
Mr. Alexis Dipanda Mouelle	Cameroon	1993
Mr. Fawzi El Ibrashi	Egypt	1995
Mr. Ricardo Gil Lavedra	Argentina	1995
Mr. Yuri A. Khitrin	Russian Federation	1993
Mr. Hugo Lorenzo	Uruguay	1995
Mr. Dimitar N. Mikhailov	Bulgaria	1993
Mr. Bent Sørensen	Denmark	1993
Mr. Joseph Voyame	Switzerland	1993

Annex III

STATUS OF SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION AS AT 30 APRIL 1993

A. Initial reports

Initial reports due in 1988 (27)

State party	Date of entry into force	Initial report date due	Date of submission	Symbol
Afghanistan	26 June 1987	25 June 1988	21 January 1992	CAT/C/5/Add.31
Argentina	26 June 1987	25 June 1988	15 December 1988	CAT/C/5/Add.12/Rev.1
Austria	28 August 1987	27 August 1988	10 November 1988	CAT/C/5/Add.10
Belarus	26 June 1987	25 June 1988	11 January 1989	CAT/C/5/Add.14
Belize	26 June 1987	25 June 1988	18 April 1991	CAT/C/5/Add.25
Bulgaria	26 June 1987	25 June 1988	12 September 1991	CAT/C/5/Add.28
Cameroon	26 June 1987	25 June 1988	15/2/89 & 25/4/91	CAT/C/5/Add.16 & 26
Canada	24 July 1987	23 July 1988	16 January 1989	CAT/C/5/Add.15
Denmark	26 June 1987	25 June 1988	26 July 1988	CAT/C/5/Add.4
Egypt	26 June 1987	25 June 1988	26/7/88 & 20/11/90	CAT/C/5/Add.5 & 23
France	26 June 1987	25 June 1988	30 June 1988	CAT/C/5/Add.2
German Democratic Republic	9 October 1987	8 October 1988	19 December 1988	CAT/C/5/Add.13
Hungary	26 June 1987	25 June 1988	25 October 1988	CAT/C/5/Add.9
Luxembourg	29 October 1987	28 October 1988	15 October 1991	CAT/C/5/Add.29
Mexico	26 June 1987	25 June 1988	10/8/88 & 13/2/90	CAT/C/5/Add.7 & 22
Norway	26 June 1987	25 June 1988	21 July 1988	CAT/C/5/Add.3
Panama	23 September 1987	22 September 1988	28 January 1991	CAT/C/5/Add.24
Philippines	26 June 1987	25 June 1988	26/7/88 & 28/4/89	CAT/C/5/Add.6 & 18
Russian Federation	26 June 1987	25 June 1988	6 December 1988	CAT/C/5/Add.11
Senegal	26 June 1987	25 June 1988	30 October 1989	CAT/C/5/Add.19 (Replacing Add.8)
Spain	20 November 1987	19 November 1988	19 March 1990	CAT/C/5/Add.21
Sweden	26 June 1987	25 June 1988	23 June 1988	CAT/C/5/Add.1
Switzerland	26 June 1987	25 June 1988	14 April 1989	CAT/C/5/Add.17
Togo	18 December 1987	17 December 1988		
Uganda	26 June 1987	25 June 1988		
Ukraine	26 June 1987	25 June 1988	17 January 1990	CAT/C/5/Add.20
Uruguay	26 June 1987	25 June 1988	6/6/91 & 5/12/91	CAT/C/5/Add.27 & 30

Initial reports due in 1989 (10)

State party	Date of entry into force	Initial report date due	Date of submission	Symbol
Chile	30 October 1988	29 October 1989	21/9/89 & 5/11/90	CAT/C/7/Add.2 & 9
China	3 November 1988	2 November 1989	1/12/89 & 8/10/92	CAT/C/7/Add.5 & 14
Colombia	7 January 1988	6 January 1989	24/4/89 & 28/8/90	CAT/C/7/Add.1 & 10
Czech and Slovak Federal Republic	6 August 1988	5 August 1989	21/11/89 & 14/5/91	CAT/C/7/Add.4 & 12
Ecuador	29 April 1988	28 April 1989	27/6/90, 28/2/91 & 26/9/91	CAT/C/7/Add.7, 11 & 13
Greece	5 November 1988	4 November 1989	8 August 1990	CAT/C/7/Add.8
Guyana	18 June 1988	17 June 1989		
Peru	6 August 1988	5 August 1989	9 November 1992	CAT/C/7/Add.15
Tunisia	23 October 1988	22 October 1989	25 October 1989	CAT/C/7/Add.3
Turkey	1 September 1988	31 August 1989	24 April 1990	CAT/C/7/Add.6

Initial reports due in 1990 (11)

State party	Date of entry into force	Initial report date due	Date of submission	Symbol
Algeria	12 October 1989	11 October 1990	13 February 1991	CAT/C/9/Add.5
Australia	7 September 1989	6 September 1990	27/8/91 & 11/6/92	CAT/C/9/Add.8 & 11
Brazil	28 October 1989	27 October 1990		
Finland	29 September 1989	28 September 1990	28 September 1990	CAT/C/9/Add.4
Guinea	9 November 1989	8 November 1990		
Italy	11 February 1989	10 February 1990	30 December 1991	CAT/C/9/Add.9
Libyan Arab Jamahiriya	15 June 1989	14 June 1990	14/5/91 & 27/8/92	CAT/C/9/Add.7 & 12/Rev.1
Netherlands	20 January 1989	19 January 1990	14/3/90, 11/9/90 & 13/9/90	CAT/C/9/Add.1-3
Poland	25 August 1989	24 August 1990	22 March 1993	CAT/C/9/Add.13
Portugal	11 March 1989	10 March 1990		
United Kingdom of Great Britain and Northern Ireland	7 January 1989	6 January 1990	22/3/91, 30/4/92 & 31/3/93	CAT/C/9/Add.6, 10 & 14

Initial reports due in 1991 (7)

State party	Date of entry into force	Initial report date due	Date of submission	Symbol
Germany	31 October 1990	30 October 1991	9 March 1992	CAT/C/12/Add.1
Guatemala	4 February 1990	3 February 1991		
Liechtenstein	2 December 1990	1 December 1991		
Malta	13 October 1990	12 October 1991		
New Zealand	9 January 1990	8 January 1991	29 July 1992	CAT/C/12/Add.2
Paraguay	11 April 1990	10 April 1991	13 January 1993	CAT/C/12/Add.3
Somalia	23 February 1990	22 February 1991		

Initial reports due in 1992 (10)

State party	Date of entry into force	Initial report date due	Date of submission	Symbol
Croatia	8 October 1991	7 October 1992		
Cyprus	17 August 1991	16 August 1992		
Estonia	20 November 1991	19 November 1992		
Israel	2 November 1991	1 November 1992		
Jordan	13 December 1991	12 December 1992		
Nepal	13 June 1991	12 June 1992		
Romania	17 January 1991	16 January 1992	14 February 1992	CAT/C/16/Add.1
Venezuela	28 August 1991	27 August 1992		
Yemen	5 December 1991	4 December 1992		
Yugoslavia (Serbia and Montenegro)	10 October 1991	9 October 1992		

Initial reports due in 1993 (7)

State party	Date of entry into force	Initial report date due	Date of submission	Symbol
Benin	11 April 1992	10 April 1993		
Cambodia	14 November 1992	13 November 1993		
Cape Verde	4 July 1992	3 July 1993		
Czech Republic	1 January 1992	31 December 1993		
Latvia	14 May 1992	13 May 1993		
Monaco	5 January 1992	4 January 1993		
Seychelles	4 June 1992	3 June 1993		

B. Periodic reports*

Second periodic reports due in 1992 (26)

State party	Second periodic report date due	Date of submission	Symbol
Afghanistan	25 June 1992		
Argentina	25 June 1992	29 June 1992	CAT/C/17/Add.2
Austria	27 August 1992		
Belarus	25 June 1992	15 September 1992	CAT/C/17/Add.6
Belize	25 June 1992		
Bulgaria	25 June 1992		
Cameroon	25 June 1992		
Canada	23 July 1992	11 September 1992	CAT/C/17/Add.5
Denmark	25 June 1992		
Egypt	25 June 1992	13 April 1993	CAT/C/17/Add.11
France	25 June 1992		
Hungary	25 June 1992	23 September 1992	CAT/C/17/Add.8
Luxembourg	28 October 1992		
Mexico	25 June 1992	21 July 1992	CAT/C/17/Add.3
Norway	25 June 1992	25 June 1992	CAT/C/17/Add.1
Panama	22 September 1992	21 September 1992	CAT/C/17/Add.7
Philippines	25 June 1992		
Russian Federation	25 June 1992		
Senegal	25 June 1992		
Spain	19 November 1992	19 November 1992	CAT/C/17/Add.10
Sweden	25 June 1992	30 September 1992	CAT/C/17/Add.9
Switzerland	25 June 1992		
Togo	17 December 1992		
Uganda	25 June 1992		
Ukraine	25 June 1992	31 August 1992	CAT/C/17/Add.4
Uruguay	25 June 1992		

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* By decision of the Committee at its seventh and tenth sessions, those States parties which had not yet submitted their initial report due in 1988, namely, Togo and Uganda, or in 1989, namely Guyana, have been invited to submit both the initial and the second periodic reports in one document.

Second periodic reports due in 1993 (9)

State party	Second periodic report date due	Date of submission	Symbol
Chile	29 October 1993		
China	2 November 1993		
Colombia	6 January 1993		
Ecuador	28 April 1993	21 April 1993	CAT/C/20/Add.1
Greece	4 November 1993		
Guyana	17 June 1993		
Peru	5 August 1993		
Tunisia	22 October 1993		
Turkey	31 August 1993		

Annex IV

COUNTRY RAPPORTEURS AND ALTERNATE RAPPORTEURS FOR EACH OF THE REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AT ITS NINTH AND TENTH SESSIONS

A. Ninth session

Report	Rapporteur	Alternate
Afghanistan: initial report (CAT/C/5/Add.31)	Mr. Sørensen	Mr. Burns
Argentina: second period report (CAT/C/17/Add.2)	Mr. Lorenzo	Mr. Ben Ammar
Belarus: second periodic report (CAT/C/17/Add.6)	Mr. Mikhailov	Mr. Gil Lavedra
Germany: initial report (CAT/C/12/Add.1)	Mr. Voyame	Mr. Mikhailov
Libyan Arab Jamahiriya: additional report (CAT/C/9/Add.12/Rev.1)	Mr. Sørensen	Mr. Burns
Mexico: second periodic report (CAT/C/17/Add.3)	Mr. Gil Lavedra	Mr. Lorenzo
New Zealand: initial report (CAT/C/12/Add.2)	Mr. El Ibrashi	Mr. Gil Lavedra
Norway: second periodic report (CAT/C/17/Add.1)	Mr. Sørensen	Mr. Khitrin
Ukraine: second periodic report (CAT/C/17/Add.4)	Mr. Khitrin	Mr. El Ibrashi
United Kingdom of Great Britain and Northern Ireland - dependent territories: initial report (CAT/C/9/Add.10)	Mr. Burns	Mr. Voyame

B. Tenth session

Report	Rapporteur	Alternate
Canada: second periodic report (CAT/C/17/Add.5)	Mr. El Ibrashi	Mr. Voyame
China: additional report (CAT/C/7/Add.14)	Mr. Dipanda Mouelle	Mr. Burns
Hungary: second periodic report (CAT/C/17/Add.8)	Mr. Mikhailov	Mr. Ben Ammar
Panama: second periodic report (CAT/C/17/Add.7)	Mr. Sørensen	Mr. Burns
Spain: second periodic report (CAT/C/17/Add.10)	Mr. Gil Lavedra	Mr. Ben Ammar
Sweden: second periodic report (CAT/C/17/Add.9)	Mr. El Ibrashi	Mr. Burns

Annex V

LIST OF DOCUMENTS ISSUED FOR THE COMMITTEE DURING THE REPORTING PERIOD

A. Ninth session

Symbol	Title
CAT/C/9/Add.10	Initial report of the United Kingdom: dependent territories
CAT/C/9/Add.11	Additional information of Australia
CAT/C/9/Add.12/Rev.1	Additional report of the Libyan Arab Jamahiriya
CAT/C/12/Add.2	Initial report of New Zealand
CAT/C/17/Add.1	Second periodic report of Norway
CAT/C/17/Add.2	Second periodic report of Argentina
CAT/C/17/Add.3	Second periodic report of Mexico
CAT/C/17/Add.4	Second periodic report of Ukraine
CAT/C/17/Add.5	Second periodic report of Canada
CAT/C/17/Add.6	Second periodic report of Belarus
CAT/C/17/Add.7	Second periodic report of Panama
CAT/C/19	Provisional agenda and annotations
CAT/C/SR.119-136	Summary records of the ninth session of the Committee

B. Tenth session

Symbol	Title
CAT/C/7/Add.14	Additional report of China
CAT/C/7/Add.15	Initial report of Peru
CAT/C/12/Add.3	Initial report of Paraguay
CAT/C/17/Add.8	Second periodic report of Hungary
CAT/C/17/Add.9	Second periodic report of Sweden
CAT/C/17/Add.10	Second periodic report of Spain
CAT/C/20	Note by the Secretary-General listing second periodic reports that are due in 1993
CAT/C/21	Note by the Secretary-General listing initial reports that are due in 1993

Symbol	Title
CAT/C/22	Provisional agenda and annotations
CAT/C/SR.137-153	Summary records of the tenth session of the Committee

كيفية الحصول على منشورات الأمم المتحدة

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